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SENATE BILL NO. 615

Offered January 12, 2006

A BILL to amend and reenact § 63.2-1734 of the Code of Virginia, relating to changes to child day care regulations including staff-to-child ratios; training and qualifications for program directors; program leaders, and general staff; activity space for children.

Patrons—Wagner; Delegates: Gear, Griffith, Howell, A.T. and Suit

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1734 of the Code of Virginia is amended and reenacted as follows:

A. § 63.2-1734. Regulations for child welfare agencies.

The Board, or in the case of child day centers, the Child Day-Care Council, shall adopt regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed under this subtitle, which shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies.

Such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or doctrine or require the membership, affiliation or accreditation services of any single private accreditation or certification agency.

B. Notwithstanding the authority granted the Board in subsection A, the standards and requirements of subdivisions C through J shall be applicable to child day centers.

C. For the purposes of this section, the following definitions shall apply:

"Programmatic experience in the group care of children" means time spent working directly with children in a group, in a child day center or family day home regulated by the state Department of Social Services, the state Department of Mental Health, Mental Retardation and Substance Abuse Services, or the state Department of Education; provided that "regulated" shall specifically include, without limitation, day care centers qualifying for exemption from licensure under §§ 63.2-1716 and 63.2-1717. Work time shall be computed on the basis of full-time work experience during the period prescribed or equivalent work time over a longer period.

"Staff positions" are defined as follows:

1. "Aide" means the individual designated to be responsible for helping the program leader/child-care supervisor in supervising children and in implementing the activities and services for children.

2. "Program leader" or "child-care supervisor" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children.

3. "Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not the program director personally performs these functions.

EXCEPTION: The administrator may perform staff orientation or training or program development functions if the administrator meets the qualifications of subsection D and a written delegation of responsibility specifies the duties of the program director.

4. "Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director.

D. Program director qualifications.

1. Program directors shall be at least 21 years of age and shall have:

a. A graduate degree in a child-related field from an accredited college or university and six months of programmatic experience in the group care of children;

b. An endorsement or bachelor's degree in a child-related field from an accredited college or university and one year of programmatic experience in the group care of children;

c. Forty-eight semester hours or 72 quarter hours of college credit in a child-related field from an accredited college or university and one year of programmatic experience in the group care of children;

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59 d. Two years of programmatic experience in the group care of children with one year in a staff
60 supervisory capacity and at least one of the following educational backgrounds:

61 (1) A one-year early childhood certificate from an accredited college or university that consists of at
62 least 30 semester hours;

63 (2) A child development credential by an organization approved by the department; or

64 (3) A certification of qualification from an internationally or nationally recognized Montessori
65 organization; or

66 e. Three years of programmatic experience in the group care of children with one year in a staff
67 supervisory capacity and a high school diploma or G.E.D. or verification of completion of a home
68 school program approved by the state.

69 Programmatic experience shall be obtained in a child day center that offers a staff training program
70 that includes the subject areas of first aid, human growth and development birth to age 12 years, and
71 behavioral management of children. Such training shall be completed by the employee and documented
72 by the center.

73 E. Back-up for program directors.

74 The qualified program director or a back-up program director who meets one of the director
75 qualifications shall regularly be on site at least 50% of the center's hours of operation, provided that if
76 the program employs one or more program leaders or child care supervisors who are qualified under
77 subdivision F 3 but not under subdivision F 1, the program director or back-up program director shall
78 be on site at least 75% of the center's hours of operation.

79 F. Program leader and child care supervisor qualifications.

80 1. Program leaders and child care supervisors shall be at least 18 years of age and shall meet one
81 of the program director qualifications in subsection D or have:

82 a. Three months of programmatic experience in the group care of children and at least one of the
83 following education backgrounds:

84 (1) A one year early childhood certificate from an accredited college or university that consists of at
85 least 30 semester hours;

86 (2) A child development credential by an organization approved by the department; or

87 (3) A teaching diploma from an internationally or nationally recognized Montessori organization.

88 b. A high school diploma or G.E.D. or verification of completion of a home school program
89 approved by the state, and six months of supervised programmatic experience in the group care of
90 children.

91 Within one month after being promoted or beginning work, a minimum of 12 hours of training
92 related to the care of children, including

93 (1) Child development,

94 (2) Playground safety,

95 (3) Health and safety issues, including

96 (4) Child abuse and neglect shall be received.

97 Such training may take place on site while not supervising children.

98 2. For program leaders and child care supervisors of therapeutic child day programs and special
99 needs child day programs, at least three months of programmatic experience shall be in the group care
100 of children with special needs.

101 3. Notwithstanding subdivision F 1, program leaders at short-term programs may have only one
102 season of programmatic or general experience in the group care of children, provided that this
103 experience shall include at least 250 hours, of which up to 24 hours can be formal training, working
104 directly with children in a group.

105 G. Staff orientation, training and development.

106 1. Staff shall receive the following training by the end of their first day of assuming job
107 responsibilities:

108 a. Job responsibilities and to whom they report;

109 b. The policies and procedures listed in subdivision 2 and 22 VAC 15-30-490 A that relate to the
110 staff member's responsibilities;

111 c. The center's playground safety procedures unless the staff member will have no responsibility for
112 playground activities or equipment;

113 d. Recognizing child abuse and neglect and the legal requirements for reporting suspected child
114 abuse as required by § 63.2-1509;

115 e. Confidential treatment of personal information about children in care and their families; and

116 f. The minimum standards in this chapter that relate to the staff member's responsibilities.

117 2. By the end of the first day of supervising children, staff shall be provided in writing with the
118 information listed in 22 VAC 15-30-490 A and the following:

119 a. Procedures for supervising a child who may arrive after scheduled classes or activities including
120 field trips have begun;

b. Procedures to confirm absence of a child when the child is scheduled to arrive from another program or from an agency responsible for transporting the child to the center;

c. Procedures for identifying where attending children are at all times, including procedures to ensure that all children are accounted for before leaving a field trip site and upon return to the center;

d. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies and general emergencies;

e. Policy for any administration of medication; and

f. Procedures for response to natural and man-made disasters.

3. In addition to first aid and orientation training required elsewhere in this chapter, staff who work directly with children shall annually attend eight hours of staff development activities that shall be related to child safety and development and the function of the center.

H. Areas.

1. There shall be 25 square feet of indoor space available per child.

a. Areas not routinely used for children's activities shall not be calculated as available space. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets.

b. Space in areas used by infants shall be calculated separately from space for older children. There shall be a minimum of 25 square feet of space per infant excluding space occupied by cribs and changing tables or a minimum of 35 square feet of available space per infant including space occupied by cribs and changing tables.

c. Camps for school age children are not required to meet this space requirement. However, when weather prevents outdoor activities, 25 square feet of indoor space per child shall be provided either at the program site or at a predesignated, approved location off site.

2. When children are on the outdoor play area, at least 75 square feet of space per child shall be provided at any one time.

3. Centers licensed for the care of infants and toddlers shall provide a separate playground area for these children that has at least 25 square feet of unpaved surface per infant/toddler on the outdoor area at any one time. This space may be counted as part of the 75 square feet required in subdivision 2.

4. A separate space shall be designated for children who are ill or injured.

I. Supervision of children.

1. When staff are supervising children, they shall always ensure their care, protection, and guidance.

2. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the licensee or designated by the administrator.

3. During the stated hours of operation, there always shall be on the premises and on field trips when one or more children are present one staff member who meets the qualifications of a program leader, child care supervisor, or program director and an immediately available staff member, volunteer or other employee who is at least 16 years of age, with direct means for communication between the two of them. The volunteer or other employee shall have received instruction in how to contact appropriate authorities if there is an emergency.

4. In each grouping of children at least one staff member who meets the qualifications of a program leader, child care supervisor, or program director shall be regularly present. Such staff member shall supervise no more than two aides.

5. Children under 10 years of age always shall be within actual sight and sound supervision of staff, except that staff need only be able to hear a child who is using the restroom provided that:

a. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children; and

b. Staff check on a child who has not returned from the restroom after five minutes.

6. Children 10 years of age and older shall be within actual sight and sound supervision of staff except when the following requirements are met:

a. Staff can hear or see the children (video equipment, intercom systems, or other technological devices shall not substitute for staff being able to directly see or hear children);

b. Staff are nearby so they can provide immediate intervention if needed;

c. There is a system to ensure that staff know where the children are and what they are doing;

d. There is a system to ensure that individuals who are not staff members or persons allowed to pick up children in care do not enter the areas where children are not under sight supervision; and

e. Staff provide sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.

7. When the outdoor activity area is not adjacent to the center, there shall be at least two staff members on the outdoor activity area whenever one or more children are present.

8. Staff shall greet each child upon arrival at the center and oversee each child's departure from the

182 center.

183 J. Staff-to-children ratio requirements.

184 1. Staff shall be counted in the required staff-to-children ratios only when they are directly
185 supervising children.

186 2. A child volunteer 13 years of age or older not enrolled in the program shall not be counted as a
187 child in the staff-to-children ratio requirements.

188 3. When children are regularly in ongoing mixed age groups, the staff-to-children ratio applicable to
189 the youngest child in the group shall apply to the entire group.

190 4. During the designated rest period the ratio of staff to children may be double the number of
191 children to each staff required by subdivisions 5 b, 5 c, 5 d, and 5 f if:

192 a. A staff person is within sight and sound of the resting/sleeping children;

193 b. Staff counted in the overall rest period ratio are within the building and available to ensure safe
194 evacuation in an emergency; and

195 c. An additional person is present at the center to help, if necessary.

196 5. The following ratios of staff to children are required wherever children are in care:

197 a. For children from birth to the age of 16 months: one staff member for every four children;

198 b. For children 16 months old to two years: one staff member for every five children;

199 c. For children from two years to four years: one staff member for every 10 children;

200 d. For children from four years to the age of eligibility to attend public school, five years by
201 September 30: one staff member for every 12 children;

202 e. For school age children, one staff member for every 20 children; and

203 f. Notwithstanding subdivisions 3 and 5 c, 5 d, and 5 e, the ratio for balanced mixed-age groupings
204 of children ages three through six years of age shall be one staff member for every 15 children,
205 provided:

206 (1) If the program leader or child care supervisor has an extended absence, there shall be sufficient
207 substitute staff to meet a ratio of one staff member for every 12 children.

208 (2) The center shall have readily accessible and in close classroom proximity auxiliary persons
209 sufficient to maintain a 1:10 adult-to-child ratio for all three-year-olds who are included in balanced
210 mixed-age groups to be available in the event of emergencies.

211 (3) The program leader or child care supervisor has received training in classroom management of
212 balanced mixed-age groupings of at least eight hours.

213 6. With a parent's written permission and a written assessment by the program director and child
214 care supervisor or program leader, a center may choose to assign a child to a different age group if
215 such age group is more appropriate for the child's developmental level and the staff-to-children ratio
216 shall be for the established age group.