



The Current Child Care Context

Child care providers are in a unique position to address the childhood obesity epidemic and tobacco-related health hazards. The Public Health Law Center has developed a series of resources designed to inform and support Minnesota efforts to cultivate child care settings that promote healthy eating, positive exercise habits, reduced screen time, and tobacco-free environments. This fact sheet addresses current discussions about regulating the child care setting in Minnesota.

In Minnesota and throughout the U.S., public health advocates are exploring policy strategies to increase access to healthy foods and physical activity opportunities, as well as limit screen time. Public health can be promoted in the child care setting in several ways, including updating statutes and regulations for child care providers. Minnesota stakeholders and policymakers should consider the current context of child care in Minnesota and understand how these standards might impact child care providers.

Minnesota Child Care Providers

Although the number of licensed family child care homes¹ has dropped by 17 percent since 2003, Minnesota still has far more licensed family child care providers than child care centers.² The numbers of providers and children served varies depending on which source is cited. A 2012 report found that there were approximately 11,000 licensed family child care homes, and 1,800 child care centers in Minnesota.³ By comparison, the Minnesota Child Care Resource &

Minnesota stakeholders and policymakers should consider the current context of child care in Minnesota and understand how these standards might impact child care providers.



FIGURE 1: Minnesota Child Care Settings 2012

	# of Programs — Outstate	# of Programs — Metro	Total # of Programs	Current Enrollment (statewide)
Licensed Family Providers	6,492	4,150	10,642	82,138
Centers	307	655	962	57,992
Preschools	265	347	612	22,179
School-Age Care	222	370	592	29,078
Head Starts	249	37	286	10,577

Minnesota Child Care Resource & Referral Network, December 2012

Referral Network reports 10,642 licensed family child care homes, serving 82,138, compared to 962 child care centers, serving 57,992 (Figure 1).⁴

Unintended Consequences of Child Care Regulation

As Minnesota policymakers and stakeholders consider updating state child care statutes or regulations, child care providers need to be included in the discussion. This is critical to understand the unintended consequences of increased child care regulation. Implementing new regulations in child care can unintentionally:

- Increase the price for daycare owners to stay in business;⁵
- Raise prices for parents;⁶
- Decrease wages for staff;⁷
- Reduce the quality of care;⁸ and
- Increase non-compliance with regulations.⁹

Other unintended consequences could include a reduction of children in licensed care as parents/caregivers seek cheaper unlicensed care; a reduction of providers seeking a license; and a reduction in

number of child care providers providing infant care, which is already in short supply.¹⁰ Among calls for more regulation and oversight of safety standards, Child Care Aware, a national resource and advocacy organization for parents and providers, released its annual report on the cost of child care by state. Minnesota was ranked the second most expensive state for child care in the country.¹¹

Minnesota's ranking was covered by local and national media.¹² Several news outlets drew a connection between tougher regulations and the cost of child care. One television station from North Dakota interviewed a family child care provider in Luverne, Minnesota who described mothers who had quit their job due to child care costs. The reporter commented that, "Increased state regulations for out-of-home facilities mean more staff, more hoops to jump through and a higher price tag for parents."¹³ An op-ed in the *Star Tribune* also urged caution in introducing new regulations because of higher costs and forced closures.¹⁴

Enforcement Issues

Oversight issues are common to both child care center and licensed family child care providers. While ratios vary by county, Minnesota's inspector to center ratio is 150 to one, the 10th worst in the country.¹⁵ Inspections



take place once every two years. According to Child Care Aware, 26 states have annual inspections, and 14 states have twice yearly or more frequent inspections.¹⁶

Declining Use of Child and Adult Care Food Program

The Child and Adult Care Food Program (CACFP) is a federally funded U.S. Department of Agriculture program designed to improve the diets of children.¹⁷ All licensed child care providers are eligible to participate in CACFP, which provides training and monetary reimbursement to help defray food costs.¹⁸ In Minnesota, the program is administered

through the Minnesota Department of Education and non-profit sponsoring organizations that train, monitor, and distribute the money to the providers.

The number of licensed family child care providers participating in the CACFP program has dropped steadily for the past fifteen years. From 1997 to 2011, the number of family child care homes in the CACFP program nationwide dropped 31% from 190,227 to 132,297. At the same time, the number of child care centers in the CACFP program rose almost 60% from 34,049 to 53,572 nationally.¹⁹ In Minnesota, close to 8,500 licensed family child care providers participate in the CACFP program.²⁰

Current Context of Minnesota Child Care: Safety Issues

New standards for healthy food, and active play in Minnesota child care settings need to be considered in the context of recent safety concerns. In March 2012, the *Star Tribune* reported that deaths in child care settings in Minnesota had more than doubled between 2006 and 2011 compared to the previous five years.²¹ The paper found that deaths had “reach[ed] a rate of one per month.” Most of the deaths were infants, and in family child care homes.²²

In a series of articles on the deaths, the *Star Tribune* told stories of parents grappling with the loss of children, and reported a troubling lag between safety violations and the closure of providers.²³ In one article, for example, the paper contrasted Minnesota’s regulations to those of Kansas, where inspectors visit child care centers twice as often as Minnesota’s regulators. Inspectors in Kansas upload their visit reports immediately after a provider visit so parents can track safety and other violations online.²⁴

Following the publicity from the *Star Tribune* articles, the Minnesota Department of Human Services convened a panel to investigate the deaths. The panel’s

report, which was released in August of 2012, found that 40 percent of the child deaths had been with providers with previous safety violations, and 75 percent of the deaths had occurred while the infant was sleeping or in a “sleeping environment.” The panel recommendations included aligning Minnesota’s statutes and training requirements with sleeping standards from the American Academy of Pediatrics, adding annual inspections of licensed family child care providers, decreasing the required caregiver to child ratios, and the revoking of licenses immediately when unsafe sleep environments are discovered.²⁵

How to Minimize Financial Impact of Regulation

Policymakers and stakeholders considering legal changes need to be aware of the potential financial impact on providers. Other states have tailored child care policy options to address affordability concerns.

In Arizona, for example, the state offered a 50% discount on state licensing fees if providers completed training and implemented best practices for physical activity, screen time, nutrition, and exposure to second-hand smoke in their centers.²⁶ Over 1,800 child-care centers in the state enrolled in the program, and four of the ten practices in Arizona’s program were incorporated into Arizona’s regulations.²⁷

New nutrition and physical activity policies that directly address the cost issue may have more support than those that do not address this issue.²⁸

Please visit the Public Health Law Center website for more information on innovative approaches to introducing nutrition and physical activity standards within existing federal frameworks and information on Minnesota’s quality rating system and best practices from around the country.²⁹

Last updated: January 2013

The Public Health Law Center thanks Hanna Kite, MPH, and Sarah Hall, for their assistance in writing and editing these series of resources, as well as Lyndsey Guthrey for her work on the project. The Public Health Law Center would also like to thank the following individuals for their review and comments on earlier drafts of these resources: Rachel Callanan, JD MNM, Midwest Affiliate of the American Heart Association; Jenna Carter, MPH, Blue Cross and Blue Shield of Minnesota; Katy Chase, Minnesota Licensed Family Child Care Association; and Dr. Marilyn S. Nanney, PhD, MPH, RD, Associate Professor in the Department of Family Medicine & Community Health of the University of Minnesota Medical School.



This publication was prepared by the Public Health Law Center at William Mitchell College of Law, St. Paul, Minnesota, with financial support provided by Blue Cross® and Blue Shield® of Minnesota, a nonprofit independent licensee of the Blue Cross and Blue Shield Association. The Center used information gathered as part of a Robert Wood Johnson Foundation’s Healthy Eating Research grant (#69299) regarding the child care setting.

The Public Health Law Center provides information and technical assistance on issues related to public health. The Public Health Law Center does not provide legal representation or advice. This document should not be considered legal advice. For specific legal questions, consult with an attorney.

Endnotes

- ¹ Minnesota law refers to day care homes in statute and regulation, but this fact sheets utilizes the industry used term “licensed family child care providers.”
- ² ChildCare Aware of America, *Child Care in the State of Minnesota*, (2012), http://www.naccrra.org/sites/default/files/default_site_pages/2012/mnnesota_060612-3.pdf.
- ³ *Id.*
- ⁴ Mn. Child Care Resource & Referral Network, *Minnesota Child Care Settings: 2012* (Dec. 2012) (unpublished compilation) (on file with author). These numbers differ from a 2010 survey. That report found during the school year, half of Minnesotan’s children attend child care centers, and only 14% of children are in family child care. Minnesota Department of Human Services, *Child Care Use in Minnesota: Report of the 2009 Statewide Household Child Care Survey*, (Nov. 2010), <https://edocs.dhs.state.mn.us/lfsrver/Public/DHS-6278-ENG>.
- ⁵ David M. Blau, *Unintended Consequences of Child Care Regulations*, 14 *Labour Economics* 3, Abstract (Jan. 2006), [http://www.unc.edu/depts/econ/profs/blau/Unintended consequences of child care regulations2.pdf](http://www.unc.edu/depts/econ/profs/blau/Unintended%20consequences%20of%20child%20care%20regulations2.pdf).
- ⁶ V. Joseph Hotz & Mo Xiao, *The Impact of Regulations on the Supply and Quality of Care in Child Care Markets*, 101 *AM. ECON. R.* 1775, 1797 (2011).
- ⁷ Blau, *supra* note 5.
- ⁸ Hotz, *supra* note 6 at 1800; see also Diana W. Thomas, *Increasing the Supply of Affordable Child Care*, NATIONAL CENTER FOR POLICY ANALYSIS, (Nov. 2011), <http://www.ncpa.org/pdfs/ba759.pdf>.
- ⁹ Blau, *supra* note 5 at 9.
- ¹⁰ Interview with Katy Chase, Executive Director, Minnesota Licensed Family Child Care Association (Dec. 18, 2012) (on file with author).
- ¹¹ ChildCare Aware, *Parents and the High Cost of Child Care* (2012), http://www.naccrra.org/sites/default/files/default_site_pages/2012/cost_report_2012_final_081012_0.pdf.
- ¹² Brad Tuttle, *Child Care or College Tuition: Which Family Expense Is Rising Faster?* N.Y. TIMES, Aug. 20, 2012, <http://business.time.com/2012/08/20/child-care-or-college-tuition-which-family-expense-is-rising-faster>. Stephanie Hanes, *Childcare Cost: Day Care Expense Rivals College Cost, Fuels Social Problems*, CHRISTIAN SCIENCE MONITOR, Aug. 23, 2012, <http://www.csmonitor.com/The-Culture/Family/Modern-Parenthood/2012/0823/Childcare-cost-Day-care-expense-rivals-college-cost-fuels-social-problems>. Emily Kaiser, *Minnesota Day Care More Expensive Than College Tuition*, MPRNEWS, Aug. 20, 2012, <http://minnesota.publicradio.org/display/web/2012/08/20/daily-circuit-child-care-costs/>.
- ¹³ Kelly Bartnick, *Minnesota Second Highest for Daycare Cost*, KELOLAND TV, Aug. 16, 2012, <http://www.keloland.com/news/newsdetail6371.cfm/minnesota-second-highest-for-daycare-cost/?id=135977>.
- ¹⁴ *Editorial: Move Cautiously on Day-Care Proposal*, STAR TRIBUNE, Sept. 15, 2012, <http://www.startribune.com/opinion/editorials/169831346.html>.
- ¹⁵ Jeremy Olson, *et al.*, *Child-Care Providers Have Two Sets of Rules*, STAR TRIBUNE, July 16, 2012, <http://www.startribune.com/local/162479246.html>.
- ¹⁶ *Id.*
- ¹⁷ 42 U.S.C. § 1766 (2012).
- ¹⁸ Minnesota Licensed Family Child Care Ass’n., *What is the CACFP Food Program?* <http://mlfccca.org/displaycommon.cfm?an=3>.
- ¹⁹ *Child & Adult Care Food Program: Participation Trends* Food Research and Action Center frac.org, Mar. 2012, http://frac.org/newsite/wp-content/uploads/2009/05/cacfp_participation_trends_report_2012.pdf.
- ²⁰ Interview with Julie Wadsworth, Minnesota Department of Education, December 31, 2012 (on file with author).
- ²¹ Brad Schrade, *Deaths in Minn. Day Cares Rising, Mostly in Home-Based Settings*, STAR TRIBUNE, Mar. 5, 2012, <http://www.startribune.com/local/141314823.html>.
- ²² Brad Schrade, *et al.*, *Asleep at Day Care and in Deadly Peril*, STAR TRIBUNE, May 7, 2012, <http://www.startribune.com/lifestyle/health/150303605.html>.

- ²³ Jeremy Olson & Brad Schrade, *'Immediate' Closing of Brooklyn Center Day Care Took 5 Years*, STAR TRIBUNE, Feb. 16, 2010, <http://www.startribune.com/local/north/139410493.html>.
- ²⁴ Brad Schrade, *Pushed By Grieving Parents, Kansas Makes Sweeping Reforms*, STAR TRIBUNE, Sept. 17, 2012, <http://www.startribune.com/politics/statelocal/169913086.html>.
- ²⁵ Child Mortality Review Panel, *Review of Child Deaths in Minnesota Licensed Family Child Care Homes: January 2002–August 2012*, MINNESOTA DEPT. OF HUMAN SERVICES (2012), <http://stmedia.startribune.com/documents/Deaths+in+Licensed+Child+Care+Homes1.pdf>.
- ²⁶ Arizona Department of Health Services, *Empower: Turning a Potential Child Care Crisis into a Healthy Opportunity for Arizona Children* (2012) http://azdhs.gov/empowerpack/documents/Empower_Healthy-Opportunity-for-Arizona-Children.pdf.
- ²⁷ *Id.*
- ²⁸ Visit <http://www.publichealthlawcenter.org/topics/healthy-eating/child-care> for more publications on child care policy options and best practices.
- ²⁹ *Id.*