

VA ADC T. 22, Agcy. 40, Ch. 120, Refs & Annos

22 VAC 40-120-10

22 VAC 40-120-10. Introduction.

A. Legal Base. Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia sets forth the responsibility of the Department of Social Services for licensure of family day-care systems, including the authority and responsibility of the State Board of Social Services for the development of regulations containing minimum standards and requirements.

It is a misdemeanor to operate a family day-care system without a license. (§ 63.2-1712 of the Code of Virginia)

B. Definitions. The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

“Abused or neglected child” (see § 63.2-100 of the Code of Virginia) means any child younger than 18 years of age whose parents or other persons responsible for his or her care:

a. Create or inflict, threaten to create or inflict, or allow to be created or inflicted a physical or mental injury by other than accidental means, or create a substantial risk of death, disfigurement, or impairment of bodily or mental functions;

b. Neglect or refuse to provide care necessary for the child’s health, unless the child is, in good faith, under treatment solely by spiritual means through prayer, according to the practice of a recognized church or denomination;

c. Abandon the child;

d. Commit or allow to be committed any sexual act upon a child in violation of the law.

“Child” means any person younger than 18 years of age.

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“*Commissioner*” means the Commissioner of Social Services also known as the Director of the Virginia Department of Social Services. (§ 63.2-100 of the Code of Virginia)

“*Complaint*” means an accusation received either orally or in writing that:

- a. A licensed family day-care system is not in compliance with one or more of these standards or one or more statutory requirements; or
- b. A family day-care system home is not in compliance with one or more applicable requirements of these standards or one or more requirements as established by the family day-care system; or
- c. A child or children in the care of a family day-care home, which is a member of a licensed family day-care system is or are being abused or neglected.

“*Day-care*” means care, protection, and guidance provided to a child or group of children separated from their parents or guardian for less than 24 hours per day at a location other than the home of the parents or guardian.

“*Day-care provider*” means an individual who, by contract with a family day-care system, provides day-care in his or her home.

“*Department*” means the Virginia Department of Social Services.

“*Department representative*” means an employee of the department, acting as the authorized agent of the commissioner in carrying out the responsibilities and duties specified in Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia.

“*Director*” means the licensee or a person designated by the licensee who oversees the day-to-day operation of the system, including compliance with all minimum standards for licensed family day-care systems.

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“Family day-care system” means any person who approves family day-care homes as members of its system; who refers children to available day-care homes in that system; and who through contractual arrangement may provide central administrative functions, including, but not limited to, training of operators of family day-care homes; technical assistance and consultation to operators of family day-care homes; inspection, supervision, monitoring, and evaluation of family day-care homes; and referral of children to available health and social services. (§ 63.2-100 of the Code of Virginia)

“Family day-care system home” means any private family home, which is an approved member of a family day-care system and receives nine or fewer children for care, protection, and guidance during any part of the 24-hour day except children who are related by blood or marriage to the person who maintains the home. Family day-care homes that are members of a licensed day-care system and are approved by that system to care for six or more children are not subject to direct licensure by the department. (§ 63.2-100 of the Code of Virginia)

“Licensee” means any person, association, partnership, or corporation to whom the license is issued.

“Person” means any natural person or any association, partnership, or corporation. For the purpose of these standards public agencies are not included in this definition.

“Referral” means any activity by the family day-care system that provides assistance in locating or arranging day-care for children in homes that have been accepted or approved as members of the system, or in locating or arranging for health or social services from other sources based upon identified needs.

“Sponsor” means an individual, association, partnership, or corporation having the responsibility for planning and operating a family day-care system subject to licensure. The licensee is the sponsor of a family day-care system. (The sponsor may not, in all cases, be the owner of the physical plant including buildings or real estate, or both, in or on which the family day-care system office is located. In these instances the term “sponsor” as defined here and used in this chapter is considered to be the person, partnership, association, or corporation that owns the enterprise rather than the physical plant or real estate, or both.)

C. The license.

1. A license to operate a family day-care system is issued to a specific person, partnership, association, or corporation for an exact location, which will be indicated on the license.

2. The family day-care system shall be operated and conducted in the name of the sponsor or in such name as

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shall be designated on the application and as indicated on the license.

3. The license expires automatically and is not transferable when there is a change of sponsorship.

4. The current license shall be posted at all times at a place that is conspicuous to the public in the building housing the system office. If the system has more than one office, copies of the current license shall be posted in a place that is conspicuous to the public in each office.

5. An annual license is one issued to a family day-care system when the activities, services, and facilities meet substantially the minimum standards and requirements for a license that are set forth in this chapter and any additional requirements that may be specified in Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia. The annual license is effective for 12 months unless it is sooner revoked or surrendered.

6. When an annual license expires, a provisional license may be issued for any period not to exceed six months if the applicant is temporarily unable to comply with all of the requirements; however, no facility may operate under any such provisional license and renewals of that license for a longer period than six successive months.

7. At the discretion of the commissioner, a conditional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements. A conditional license and any renewal of that shall be for no longer a period than six successive months.

8. Terms of the license.

a. The terms of any license issued include:

(1) The operating name of the family day-care system;

(2) The name of the individual, the partnership, the association, or the corporation to whom the license is issued;

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(3) The physical location;

(4) The number of homes that may be under contract to the system;

(5) The period of time for which the license is effective; and

(6) The total number of children who may be referred by the system and be receiving care at any given time in all homes that are members of the system.

b. The terms of the license may include other limitations that the commissioner may prescribe within the context of this chapter.

c. The provisional license cites the standards with which the licensee is not in compliance.

D. The licensing process.

1. Pre-application consultation. Upon request, the department's representative will provide consultation to any person seeking information about obtaining a license for a family day-care system. The purpose of such consultation is:

a. To explain standards;

b. To help the potential applicant to explore the operational demands of a licensed family day-care system;

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- c. To provide assistance in locating sources of information and technical assistance;
- d. To alert the potential applicant of the need to determine whether local ordinances will affect the proposed operation (e.g. zoning, business license, etc.);
- e. To provide an on-site visit to a proposed family day-care system office, upon request.

2. The application.

- a. The application for a license to operate a family day-care system shall be obtained from the department.
- b. The application, together with all required information, shall be submitted to the department at least two months in advance of the planned opening date.

This is required in order that a determination of compliance with the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia and with the Standards for Licensed Family Day-Care Systems as set forth in this chapter may be made.

Among other things, the information submitted shall be sufficient to enable the department's representative to determine, during the subsequent investigation, the specific services to be offered, the adequacy of staff to provide these services, the financial capability of the applicant, the character and reputation of the applicant, including the officers and agents of any association, partnership, or corporation as mandated by § 63.2-1702 of the Code of Virginia.

- c. The application shall be signed by the individual responsible for the operation of the family day-care system. The application for a family day-care system to be operated by a board shall be signed by an officer of the board, preferably the chairman.

3. The investigation.

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a. Following receipt of the application, the department's representative will make an on-site inspection of the proposed office and an investigation of the proposed services, as well as an investigation of the character and reputation of the applicant, and, upon receipt of the initial application, an investigation of the applicant's financial responsibility.

b. Applicants for licensure and licensees shall at all times afford the commissioner reasonable opportunity to inspect all of their facilities, books, and records, and to interview their agents and employees and any person living or participating in such facilities, or under their custody, control, direction, or supervision. (§ 63.2-1706 of the Code of Virginia) The financial records of an initial applicant shall not be subject to inspection if the applicant submits an operating budget and at least one credit reference.

4. Notice to the applicant of commissioner's action. Upon completion of the investigation of the application for a license, the applicant will be notified in writing of the commissioner's decision.

If the license is issued, an accompanying letter will cite any areas of noncompliance with standards. This letter will also include any limitations on the license and may contain recommendations.

If a license is to be denied, the letter will state the reasons for the intent to deny and will set forth the applicant's right to an administrative hearing.

5. Procedures for renewal of annual, provisional, or conditional license. In order to renew an annual, provisional, or conditional license, the licensee must complete the renewal application and return it, together with any required attachments, to the department. In order to assure timely processing, the renewal application should be completed and returned within 10 days after it is received from the department.

The procedure for investigation and issuance or denial of the license as set forth in subdivisions 3 and 4 of this subsection will be followed.

6. Early compliance (replacement of a provisional or conditional license with an annual license).

a. A provisional or conditional license may be voided and an annual license issued when all of the following conditions exist:

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(1) The facility complies with all standards listed on the face of the provisional or conditional license well in advance of the expiration date of the provisional or conditional license, and no additional areas of noncompliance exist;

(2) Compliance has been verified by an on-site observation by the department representative or by written evidence provided by the licensee; and

(3) All other terms of the license remain the same.

b. A request to void a provisional or conditional license and to issue an annual license must be made in writing by the licensee to the regional office of the department from which the family day-care system's license to operate was issued.

c. If the request is approved by the department, the effective date of the new annual license will be the same as the beginning date of the provisional or conditional license.

7. Situation requiring a new application. A new application must be filed when sponsorship of the family day-care system changes.

8. Modification.

a. The conditions of the license may be modified during the effective dates of the license with respect to increasing or decreasing the number of homes that may be placed under contract, the number of children who may be referred by the system and be receiving care at a given time, changing the name of the system when there is no change in sponsorship, changing location of the system office, or other conditions caused by changes in staff, program, or facilities.

b. The licensee shall report to the department any contemplated changes in operation that would affect either the terms of the license or the continuing eligibility for a license. (This does not mean the department has to approve changes in staff or program unless they affect the terms of the license or continuing eligibility.)

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c. This information shall be submitted in writing by the licensee to the regional office of the department from which the system's license to operate was issued.

d. The department will then determine whether such changes may be approved and the license modified accordingly or whether a new application must be filed.

9. Determination of continued compliance. In order to determine continued compliance with standards during the effective dates of the license, the department's representative will make announced and unannounced visits to the office or offices of the system and may make such visits to homes that are members of the system.

10. Complaint investigation.

a. The department has the responsibility to investigate any complaints regarding alleged violations of minimum standards for licensed family day-care systems and provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia.

b. The licensee has the responsibility to investigate any complaints regarding any family day-care home that is approved as a member of its system. (See 22 VAC 40-120-50 C.) At its discretion the department may also investigate complaints against individual homes.

11. Revocation. Any license may be revoked for failure to maintain these standards or for violation of the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia.

12. Appeals. The applicant or licensee has the right to request an administrative hearing regarding any denial or revocation of a license, in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Following the receipt of the final order that transmits the department's decision after the administrative hearing, the applicant/licensee has the right to appeal to a court of record in accordance with § 63.2-1710 of the Code of Virginia.

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22 VAC 40-120-20. Organization and administration.

A. Sponsorship.

1. A family day-care system may be sponsored by a single individual, a partnership, an association, or a corporation.
2. A corporation sponsoring a family day-care system shall maintain its corporate status in accordance with Virginia law.
3. Such corporation shall be organized and empowered for the purpose of operating and maintaining a family day-care system. Corporations not organized and empowered solely to operate a family day-care system shall provide for such operations in their charters.
4. A family day-care system sponsored by an association or corporation shall be controlled by a governing board that shall fulfill the duties of the licensee.
5. If a family day-care system is sponsored by an individual or a partnership, the individual or partnership shall be the licensee and shall comply with the responsibilities specified for the governing board. (See subdivision B 3 of this section.)

B. Governing board.

1. Composition of the governing board.
 - a. The membership of the governing board shall be based on the size and purpose of the family day-care system as well as the services to be offered by the system.

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b. It shall be large enough and of a composition to:

- (1) Be representative of the variety of interests served by the system;
- (2) Contain experience appropriate to the services offered by the system; and
- (3) Be representative of the geographical area served by the system.

c. At minimum, the governing board shall be composed of three members, unless there are fewer than three shareholders at which time the number of members can equal the number of shareholders. This membership shall include a president, secretary-treasurer, and member-at-large. When there are fewer than three members, this membership shall consist of a president and secretary-treasurer.

d. The method of selecting board members shall be made known to the department's representative and shall be consistent with the bylaws.

2. Meetings of the governing board.

- a. The governing board shall meet not less often than quarterly.
- b. Minutes of all meetings shall be recorded and retained in a permanent file at the office of the family day-care system.
- c. Copies of minutes shall be made available to the department's representative upon request.

3. The responsibilities of the governing board shall include, but shall not be limited to:

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- a. Establishing written bylaws for the association or corporation (not applicable to an individual or partnership).

- b. Establishing written goals and policies under which the family day-care system is to operate (see subsection C of this section).

- c. Ensuring the family day-care system functions according to its defined purpose and within the scope of services to be offered.

- d. Ensuring compliance with minimum standards for licensed family day-care systems.

- e. Maintaining a budgetary and financial system that assures a sound financial structure is maintained.

- f. Appointing a qualified director to whom it delegates, in writing, the authority and responsibility for administrative direction and management of the family day-care system in accordance with established policies (optional for an individual or partnership).

- g. Establishing written policies that govern the board's or licensee's relationship to the director to include, at minimum:
 - (1) Evaluation of the performance of the director not less often than annually;

 - (2) Provision for the director to meet with the board periodically to review the services being provided and the personnel needs and the fiscal management of the family day-care system.

- h. Providing a written organizational chart that indicates the organizational elements of the system, the personnel positions within each organizational element, and the lines of authority and communication

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within the family day-care system. This chart shall be kept current.

i. Reviewing, at least annually, the program of the family day-care system. This review shall include an examination of:

(1) The number, size, and capabilities of homes, and quality of service offered by homes that are members of the system;

(2) The needs of homes that are members of the system and the services offered to these homes by the system;

(3) The needs of children and families served by the system and the services offered to them;

(4) Problems encountered in the operation of the system;

(5) Consistency of services provided within the framework of the stated purpose and objectives of the system;

(6) Changes required in the focus of the system's program;

(7) The adequacy of the recordkeeping system.

j. Determining, based on the annual review required by subdivision 3 i of this subsection, the following:

(1) Requirements for additional staff training;

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(2) Requirements for changes in staffing;

(3) Requirements for changes in the focus of the program and services offered by the system.

k. Developing and implementing plans to respond to the needs identified in subdivision 3 j of this subsection.

l. Maintaining accurate and appropriate inventories regarding all real property and equipment belonging to the system.

m. Ensuring that member homes comply with local child care ordinances where such ordinances exist. (NOTE: A note of approval from the administrator of the local ordinances will constitute evidence of compliance.)

C. Goals, policies, and procedures.

1. Goals.

a. Written goals shall be developed for the family day-care system.

b. These goals shall clearly describe the philosophy and objectives of the system.

c. At minimum, they shall address:

(1) The purpose of the family day-care system;

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(2) The population to be served;

(3) The recruitment of homes;

(4) The program to be offered by the system in terms of:

(a) Services to be provided to the homes that are members of the system;

(b) Services to be provided to families and children who use the system.

2. Policies and procedures. Written policies and procedures shall be prepared for the operation of the family day-care system. These policies and procedures shall relate to:

a. Personnel policies. (See 22 VAC 40-120-30 B.)

b. Services to member homes including:

(1) Criteria for approving family day-care homes as members of system;

(2) Training of home operators;

(3) Technical assistance and consultation to home operators; and

(4) Inspection, supervision, monitoring and evaluation of system homes.

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c. Services to children and their families including:

(1) Referral of children to homes that are members of the system; and

(2) Referral of children to available health and social services.

3. A copy of the goals and all policies and procedures shall be made available to the department representative upon request.

D. Finances.

1. Fiscal accountability. The family day-care system shall have a plan of financing that assures sufficient funds to operate in accordance with its stated purpose, objectives, and the services to be provided.

2. Internal financial procedures.

a. There shall be a system of financial recordkeeping that is consistent with generally accepted accounting principles, showing separation of the system's accounts from all other records.

b. There shall be a written policy for the collection and disbursement of funds.

c. Those members of the governing board or body and staff who have been granted authorized responsibility for funds of the system shall be bonded.

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3. Fee and payment schedules.

a. The family day-care system shall maintain a current written schedule of fees charged for the services provided. The applicable schedule or schedules shall be made available to families who seek or use the services of the system, to homes that apply for membership in the system, and to the department as part of the application for licensure.

b. The family day-care system shall establish and maintain a current written schedule of payments to be made to homes that are members of the system. This schedule shall specify the amount of payment, conditions of payment, and frequency of payment. It shall be provided to all homes that are members of the system and also to the department as part of the application for licensure. When applicable, this schedule shall also be made available to families who seek or use the services of the system.

E. Relationship to the licensing authority.

1. The family day-care system shall submit to the department such reasonable reports and information as it may require. (See § 63.2-1708 of the Code of Virginia.)

2. The system's books and records shall be made available for inspection by the department's representative, upon request. (See § 63.2-1706 of the Code of Virginia.)

3. The licensee, governing board, or its official representative shall notify the department when any major change is anticipated in the program, services provided, or administrative structure. When such a change occurs, which was not anticipated, this notification shall be provided no later than 10 days following the change. The department shall also be notified within five working days whenever a new director is employed by the family day-care system.

F. Family day-care system setting.

1. The family day-care system shall have an office that shall serve as the headquarters of the system.

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2. This office shall have:

a. Sufficient space for administration of the system, including all clerical functions;

b. Sufficient space to maintain privacy and confidentiality for conferences with parents who seek or use the services of the system and family day-care home operators who are members of the system; and

c. At least one working telephone, other than a pay phone, with a listed number that is available for system business. An emergency phone number shall be provided for the use of the homes in the system during any hours that children are in care if the system's telephone is not manned during those hours.

G. Determination of the number of homes that may be under contract to the system. In order to ensure timely and adequate service delivery, the maximum number of homes that may be under contract of the system shall be based on the following factors:

1. The number of system's office staff (NOTE: Persons who are approved as day-care providers and their assistants are not considered to be system's office staff.);

2. The geographical dispersion of homes with relation to the system office;

3. The type or types and needs of children served by the system;

4. The financial capabilities of the system; and

5. The types of program or programs and services offered by the system.

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22 VAC 40-120-30. Personnel. [FN*]

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A. General Requirements.

1. No person convicted of a crime involving child abuse, child neglect or moral turpitude shall be a family day-care system owner, operator or employee.

2. The family day-care system owner, director, and all system employees shall be:
 - a. At least 18 years of age (EXCEPTION: Secretarial and custodial help may be younger than 18 years of age.);

 - b. Of good moral character and reputation;

 - c. Physically and mentally capable of carrying out assigned duties and responsibilities;

 - d. Emotionally stable with an understanding of problems and needs of children and their families; and

 - e. Qualified in accordance with the applicable educational training and experience requirements contained in these standards.

B. Personnel policies.

1. There shall be a written description for each staff position. This job description shall include:
 - a. The job title;

 - b. The functions assigned to the position, including authority and responsibility; and

 - c. Educational or experience, or both, requirements for the position.

2. A copy of the job description shall be made available to each person assigned to the position at the time of

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employment.

3. When a system has more than three employees, within the system's office, the system shall have written personnel policies outlining personnel practices as they affect both the employer and employee. A copy of these policies shall be readily accessible to each staff member and shall include at minimum:

- a. Conditions of employment;
- b. Conditions under which employment may be suspended or terminated;
- c. Procedures for resignation;
- d. Salary scales;
- e. Provisions for paid vacation, sick leave, compensatory leave and holidays, if any;
- f. Provisions for recurring evaluation of work performance of each employee at least annually;
- g. A description of employee benefits;
- h. Provisions for staff development and training through in-service training, attendance at conferences and workshops and educational leave; and
- i. Grievance procedures.

C. The system staff.

1. Composition and size.

- a. Composition and number of staff employed by the system shall be sufficient to assure:

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(1) Compliance with these standards;

(2) The uninterrupted and timely provision of all services included in the system program to children, parents and homes that are members of the system.

b. In order to ensure timely and adequate service delivery, the number and composition of staff shall be determined by:

(1) The scope of the program and services offered by the system;

(2) The number of homes that are members of the system and their geographical location in relation to the system office;

(3) The number of children in care in homes that are members of the system;

(4) The capabilities and experience of the staff; and

(5) The total responsibilities assigned to each staff member and the time required to effectively carry out these responsibilities. Total responsibilities are those relating to inspection, supervision, monitoring, evaluation of member homes; providing training and technical assistance to operators and staff of member homes; providing referral services to parents and children; as well as administrative tasks and supervisory responsibilities.

c. Qualified staff members, who meet the applicable qualifications established by subdivision C 2 of this section shall be designated to perform each of the following functions:

(1) Day-to-day management, administration and supervision of system operations;

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(2) Referral services to parents and children;

(3) Training, technical assistance and consultation to the staff of homes that are members of the system;

(4) Home visitation and approval which includes at minimum those functions and services relating to inspection, supervision, monitoring and evaluation of homes that are members of the system; and

(5) Clerical functions.

d. Multiple functions may be assigned to an individual staff member provided:

(1) The staff member meets the qualifications for each function as established by subdivision C 2 of this section; and

(2) The multiple assignment is consistent with the requirements of subdivision C 1 a of this section regarding the timely and uninterrupted delivery of services, and subdivision C 1 b of this section which provides for a determination of the required number and composition of staff.

2. Staff qualifications.

a. The director.

(1) There shall be one full-time staff member designated as the director of the system who shall be responsible for the overall day-to-day management, administration and supervision of system operations. In the case of an individual proprietorship or partnership the director may be the licensee.

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(2) An individual assuming the duties of a director on or after the effective date of these standards shall have:

(a) A master's degree in early childhood education, child development, social work, education or psychology from an accredited college or university, or the equivalent as determined and approved by the department, plus three years of experience in any one or more of these fields, including two years experience in a supervisory, administrative or management capacity; or

(b) A bachelor's degree in early childhood education, child development, social work psychology or education from an accredited four year college or university, or the equivalent as determined and approved by the department, plus four years of experience in any of these fields, including two years experience in a supervisory, administrative or management capacity.

b. Referral, training and home visitation services.

(1) Responsibilities for referral, training and home visitation services shall be assigned to a permanent staff member or members. These services and responsibilities shall consist of:

(a) Referral services--Interviewing of parents and children and the referral of children to family day-care homes that are members of the system or to available health or social services as special needs are identified.

(b) Training services--Developing and providing training, technical assistance and consultation to the operators and staff of family day-care homes that are members of the system.

(c) Home visitation services--Visiting family day-care homes, for the purpose of approving homes in accordance with requirements established in 22 VAC 40-120-40 and any additional requirements established by the system and assuring continued compliance with these requirements. A full-time home visitation staff member shall be responsible for no more than 25 family day-care homes.

(2) Staff members designated to perform referral, training or home visitation services on or after the effective date of these standards shall have:

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(a) A bachelor's degree in early childhood education, child development, social work, psychology or education from an accredited four year college or university or the equivalent as determined and approved by the department, or

(b) An associate degree, or equivalent, in human services, community and social service, or educational services or their equivalent as determined and approved by the department, from an accredited community college or four year college or university and two years supervised experience working in a child care center, residential children's facility, nursery school, family day-care home, or similar program providing care to children.

c. Clerical staff.

(1) The system shall employ sufficient clerical staff to keep correspondence, required records, accounts and files current and in good order.

(2) Clerical staff shall be qualified by both education and experience to perform assigned tasks.

d. Documentation of qualifications.

(1) The professional qualifications of staff members, established by subdivision C 2 of this section, shall be individually documented.

(2) The personal qualifications including those established by subdivision A 1 of this section shall be verified through character references.

(a) At least three references shall be obtained for each applicant.

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(b) These references shall not be obtained from relatives of applicants.

(c) These references shall be in writing or there shall be a written notation of verbal references.

3. Staff development.

a. Provision shall be made for orientation for all staff. This shall be documented and recorded in the employee's record.

b. Prior to assuming their duties, new employees shall be given orientation and training in at least the following areas:

(1) The objectives and philosophy of the system;

(2) The services offered by the system;

(3) Confidential treatment of personal information;

(4) The policies and procedures that are applicable to their specific position and assigned duties and responsibilities; and

(5) The standards as they apply to the individual position.

c. A written plan of in-service training with specific well-defined objectives shall be prepared and implemented annually for each employee. A copy of this plan shall be filed in the employee's record and shall be made available to the department's representative upon request. (EXCEPTION: Clerical and custodial employees are exempt from this requirement.)

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d. Attendance at conferences, seminars, workshops, institutes and academic courses related to the employee's assigned duties and responsibilities shall be encouraged.

D. Volunteers.

1. Any volunteers used shall:

- a. Have qualifications appropriate to the services they render;
- b. Be subject to laws and regulations governing the confidential treatment of personal information; and
- c. Be selected on the basis of their ability to make a positive contribution to the program.

2. The system shall establish written requirements for the screening and selection of volunteers.

3. Duties and responsibilities of all volunteers shall be clearly defined in writing and differentiated from those persons regularly filling staff positions.

4. At least one staff member shall be assigned the responsibility for selection, orientation, training, scheduling, supervision and evaluation of volunteers.

5. The system shall not be dependent on the use of volunteers to ensure the basic provision of services on a continuous basis.

[FN*]

The minimum personnel requirements and qualifications for family day-care providers and their staff are addressed in 22 VAC 40-120-40 B 1.

22 VAC 40-120-40

22 VAC 40-120-40. Services to system homes.

A. Policies and agreements.

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1. Policies. The system shall establish and maintain written policies regarding:

- a. The roles, rights and responsibilities of the system in the supervision and approval of member homes and referral of children to those homes;
- b. The roles, rights and responsibilities of homes that are members of the system;
- c. The roles, rights and responsibilities of parents of children who are cared for in homes that are members of the system;
- d. Procedures for consultation to prospective providers to include alerting them to zoning and other local ordinances;
- e. Procedures for evaluation, selection and initial approval of homes as members of the system;
- f. Orientation and training of operators and staff of homes that are members of the system;
- g. The annual renewal of approval of homes as members of the system; and
- h. Procedures to be followed to assure that all areas of non-compliance with approval requirements have been corrected.

2. Agreements.

- a. The system shall have a written agreement with each member home which specifies at least the following:

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- (1) The home's agreement with the system's policies in the areas identified in subdivision A 1 of this section;
- (2) The financial agreement between the system and the member home;
- (3) The system's role in assisting the home in developing a plan to meet the needs of each child accepted for care;
- (4) The system's role in planning for regular conferences between the home and parents of children in care;
- (5) The system's responsibility for supervision of children's care and adjustment;
- (6) The rights and responsibilities of the system to monitor, inspect, evaluate and approve member homes;
- (7) The system's right to remove a child from the home and the conditions under which a child may be removed;
- (8) That the home shall accept a child from any source other than the system responsible for the home without the prior approval of the system;
- (9) Conditions under which the provider may take children away from the member home on a routine basis (In an unusual situation, the provider shall notify the system by telephone and secure system approval before taking a child out of the home.); and
- (10) That the home shall release a child only to the persons specified in the child care agreement

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required by 22 VAC 40-120-50 A 5.

b. This agreement shall be signed prior to referral of children to the home.

B. Approval, monitoring and termination.

1. Approval, criteria and requirements. The system shall develop criteria and requirements that family day-care homes must meet to be approved as members of the system. At minimum these criteria and requirements shall address the following areas:

a. Qualifications of day-care providers and their staff that include establishing specific educational or experience requirements, or both, to assure that both providers and their staff are capable of providing acceptable care to children placed in the member home. At minimum the following basic qualifications must be met:

(1) A family day-care provider must be at least 18 years of age;

(2) A family day-care provider must be able to read and write;

(3) A family day-care assistant must be at least 14 years of age;

(4) Family day-care providers and any assistant or assistants must have the following personal attributes:

(a) An understanding of children and their problems together with an ability to relate to children with courtesy, respect, patience and affection, and understanding and respect for the child's family;

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(b) An ability to handle emergencies with dependability and good judgment; and

(c) A motivation to contribute to children's wholesome development;

(5) Family day-care providers and any assistant or assistants shall be responsible, wholesome, emotionally stable people of good character and reputation;

(6) No person convicted of a crime involving child abuse, child neglect or moral turpitude shall be a family day-care provider or assistant.

b. Ratio of adults to children in care. Ratios shall be based at minimum on the number, ages and needs of children in care. The system shall require at least one adult for every eight children in care, and infants below the age of two years shall be counted as two children in determining staff requirements.

c. The physical environment which includes:

(1) Physical plant requirements (building and grounds) and requirements for maintenance and cleanliness;

(2) Furnishing and equipment appropriate to the ages of children in care;

(3) Toileting and bathing facilities;

(4) Lighting requirements;

(5) Absence of safety hazard; and

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(6) Adequate space requirements for play activities and napping.

d. The water supply and sanitary disposal system shall be approved by the health officer, unless water is obtained from a municipal supply and the member home is connected to a municipal sewer line.

e. Care of children including at minimum supervision of children in care and the planning and providing of varied daily activities which are appropriate to the ages, needs, and capabilities of children in care. Children must be supervised at all times by an adult and shall not be left alone in the care of an assistant under the age of 18 years.

f. Methods of dealing with unacceptable behavior which prohibit harsh and unreasonable punishment.

g. Nutrition to assure that nutritious and adequate meals and snacks, in terms of quality and quantity, are provided each child.

h. Health information shall be maintained for the family day-care provider, assistant and assistants and for those household members who come in contact with children or handle food served to children, as described below:

(1) Initial tuberculosis examination and report.

(a) Prior to approval or contact with children, each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form.

(b) Each individual shall submit a statement that he or she is free of tuberculosis in a communicable form, including the type or types of test or tests used and the result or results.

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(c) The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

(d) The statement shall be filed in the individual's record.

(2) Subsequent evaluations.

(a) An individual who had a significant (positive) reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis must obtain chest x-rays on an annual basis for the following two years.

(i) The individual shall submit statements documenting the chest x-rays and certifying freedom from tuberculosis in a communicable form.

(ii) The statements shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

(iii) The statement shall be filed in the individual's record.

(iv) Screening beyond two years is not required unless there is known contact with a case of tuberculosis or development of chronic respiratory symptoms.

(b) Additional screening is not required for an individual who had a non-significant (negative) reaction to an initial tuberculin skin test.

(c) Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall, within 30 days of exposure or development, receive an evaluation in accordance with subdivision B 1 h (1) of this section.

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(3) At the request of the licensed system or the Department of Social Services, a report of examination by a licensed physician shall be obtained when there are indications that the safety of children in care may be jeopardized by the physical or mental health of a specific individual.

(4) Any individual who, upon examination or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of children in care:

(a) Shall immediately be removed from contact with children;

(b) Shall immediately be removed from contact with food served to children; and

(c) Shall not be allowed contact with children or food served to children until the conditions cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

i. Fire safety to include appropriate emergency plans for evacuation of the home. The member home shall comply with any limitations which may be placed by the Virginia Fire Safety Regulations on the maximum number of children who may be in care.

j. Record keeping to include the records to be maintained in the home on each child and the content and format of each record.

k. Each member home shall have a working telephone on the premises with a listed number. The phone number for a doctor who may be called in an emergency, an ambulance service or rescue squad, the fire department and the police shall be posted near the phone.

2. Approval determination.

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a. Prior to approval of any home, as a member of the system, the system shall determine that the home complies with the written criteria and requirements established by the system in accordance with subdivision B 1 of this section.

b. This determination of compliance shall be documented by a compliance investigation addressing, at minimum, the areas identified under subdivision B 1 of this section and an evaluation of all information provided as part of the application process.

c. The study shall also contain the following documentation:

(1) Health reports required by subdivision B 1 h of this section;

(2) Reports of at least three character references for the day-care provider and each member of the staff (These references shall be in writing or there shall be a written notation of verbal references.);

(3) A written record of previous training and experience of the day-care provider, if any; and

(4) Information to show how capacity was determined, including evaluation of any unusual conditions.

d. This study shall include interviews with all adult members of the household and at least two interviews with the day-care applicant or provider, one of which shall take place in the home where care will be provided to children.

3. Approval notification.

a. Within 30 days following the completion of the interviews required by subdivision B 2 d of this section, the system shall provide written notification to the applicant home of the results of the study, to include corrective action required.

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b. If the home is approved, the notification to the provider shall include the capacity of the home. In no case shall the capacity exceed nine children, including children under six who are related by blood or marriage to the day-care provider.

c. If the day-care provider has responsibility for a handicapped person who requires special attention or services, this factor shall be considered in determining the approved capacity of the member home and the record of the home shall contain documentation of this evaluation.

d. If the home is approved, this notification shall be accompanied by an approval certificate which shall be posted in a place that is conspicuous to the public in each approved home.

4. Termination.

a. The system shall have written policies for suspension or termination of a member home.

b. The system shall notify the provider in writing of the reasons for suspension or termination within two weeks of such suspension or termination.

5. Annual approval. Each member home shall be approved annually. The same approval process shall be used as described in subdivisions B 1 through 3.

6. Monitoring.

a. Each member home shall be visited at least quarterly in order to assure that the home continues to comply with the system's standards.

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(1) At least two of these visits shall be unannounced;

(2) The results of these visits shall be documented in the home's record.

b. The department, at any time, may make an announced or unannounced visit to a home that is a member of the system in order to assure continued compliance with the applicable provisions of this chapter. The results of such visits shall be provided to the system.

7. Annually the system shall provide the regional office of the Virginia Department of Social Services, from which the system's license to operate is issued, a current directory of approved homes that are members of the system.

a. The initial directory shall be provided 30 days after the system's initial license to operate is issued.

b. An updated directory shall be provided with the system's application for license renewal.

c. The directory shall contain at minimum the following information:

(1) The name of the day-care provider;

(2) The address of the member home;

(3) The telephone number of the member home; and

(4) The approved capacity of the member home.

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8. Copies of the notification of member home approval and termination, required by subdivisions B 3 a and B 4 b of this section, shall also be provided by the system to the regional office of the Virginia Department of Social Services from which the system's license to operate was issued.

C. Training.

1. The licensee shall have on file at the system office separate written plans describing initial and on-going training of each provider. Each plan shall describe such training in detail and shall include a description of training topic covered, training materials used, frequency and duration of training sessions, persons and resources utilized within the system and from the community to implement training, names of trainers, training methodology, and the process used to evaluate the training program by both staff and providers.

2. Initial training

a. Prior to acceptance or within the first six months after acceptance as a member home, the system shall provide initial training for each day-care provider.

b. Such training shall include at minimum a two-hour training session on each of the following areas, unless the system develops a method to certify equivalent competency in these subject areas. Such methods shall be subject to review and approval by the department.

(1) An orientation to the system;

(2) Organizing for family day-care;

(3) Child growth and development;

(4) Health care;

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(5) First aid, home safety and fire safety;

(6) Nutrition;

(7) Child abuse and protection;

(8) Appropriate activities and toys for mixed age groups of children;

(9) Dealing with unacceptable behavior;

(10) Community resources;

(11) Parent and day-care provider relationships.

c. The licensee shall describe and document the content and hours of training received by each provider or the equivalent competency, or both. This documentation shall be kept on file at the system office as part of the day-care provider required by 22 VAC 40-120-60 C 2.

3. On-going training.

a. Within each succeeding year, following the completion of initial training, the licensee shall provide at least two hours of on-going, in-service training to providers each quarter.

b. The content of this training shall be determined by the system and shall be based on the needs of

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approved day-care providers. At minimum, it shall reinforce or expand on the areas identified in subdivision C 2 b of this section.

c. The licensee shall describe and document the content and hours of training received by each provider and shall keep this documentation on file at the system office as part of the day-care provider record required by 22 VAC 40-120-60 C 2.

4. A provider who refuses to participate in training shall be terminated as a member home.

D. Technical assistance and consultation.

1. The system has the responsibility to provide technical assistance and consultation to member homes.

2. Technical assistance and consultation include, but shall not be limited to, the following areas:

a. Provision of information and advice on child development, methods of dealing with unacceptable behavior, fire safety, working with exceptional children, dealing with stress or crisis, etc.;

b. Loans of toys and equipment, if available;

c. Provision of information on training resources available in the community on an on-going basis and as appropriate; and

d. Nutrition and menu planning on an on-going basis.

3. Technical assistance and consultation provided to member homes shall be recorded in the day-care provider record required by 22 VAC 40-120-60 C 2 e (5).

22 VAC 40-120-50

22 VAC 40-120-50. Services to children and families.

A. Referral to system homes.

1. Children shall be referred only to homes which have been approved as required in subsection B of this section.
2. No child shall be referred to a home which has reached its approved capacity.
3. Referrals shall be made only after a personal interview between a representative of the system and the parent or parents and child. Prior to acceptance of a child for care, the parent and child or children shall visit the home where care will be provided.
4. When a child is accepted for care and payment will be made by a local department of public welfare or social services, the system shall seek approval from that department prior to referral of the child for care.
5. When a child is accepted for care and a referral is made to a home that is a member of the system, there shall be a written agreement between the system and parent or parents or guardian or guardians of the child. A copy of the signed agreement shall be given to the parent or parents or guardian or guardians and a copy shall also be retained and filed by the system at the system office. Additionally, the requirements of subdivisions A 6 and 7 also apply.
6. The child care agreement shall address the following items:
 - a. Child's name, birth date, home address, and home telephone number;
 - b. Names and addresses of parent or parents or guardian or guardians and telephone number at which they can be reached during hours the child is in care;
 - c. A statement that a child brought to the home shall be left with a staff member and released only to the parent or parents or other specified person or persons;
 - d. The hours the child will be in care;

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- e. The name, address, and telephone number of the child's physician;
- f. Emergency medical authorization;
- g. Transportation arrangements;
- h. Notes of any special problems or needs of a child;
- i. Granting or denying permission for field trips;
- j. Granting or denying permission for participation in water activities, such as swimming and wading;
- k. Any other referral information;
- l. Agreement regarding the home in which the child will be placed;
- m. Financial arrangements for care;
- n. A statement that staff members of both the system and member home in which the child receives care shall be available for parent conferences;
- o. Information regarding the means by which care will be provided in the event the primary day-care provider is ill, on vacation or other wise unavailable due to an emergency; and
- p. Information regarding the role of the system in referral of children in care in a home that is terminated as a member of the system.

7. The child care agreement may be a one or two part agreement at the option of the system.

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a. When a one part agreement is used it shall:

(1) Be signed by the parent or parents of the child, a representative of the system and the day-care provider in whose home the child will receive care.

(2) A copy of this agreement shall be provided by the system to the member home in which the child will receive care.

b. When the system elects to use to two part agreement the following standards apply:

(1) Part one:

(a) Shall contain all items specified in subdivision A 6 except financial arrangements for care (See subdivision A 6 m);

(b) Be signed by the parent or parents of the child, a representative of the system and the day-care provider in whose home the child will receive care; and

(c) A copy shall be provided by the system to the member home in which the child will receive care.

(2) Part two:

(a) Shall contain the financial information required by subdivision A 6 m and any other information that the system deems appropriate;

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(b) Shall be signed by the parent or parents of the child and a representative of the system.

8. Health requirements for children.

a. Timing and frequency of medical reports:

(1) Each child accepted for care shall obtain a physical examination by or under the direction of a licensed physician prior to admission (as outlined below) or within 30 days after admission:

(a) Within 60 days prior to admission for children six months of age and younger;

(b) Within 90 days prior to admission for children seven months through 18 months of age;

(c) Within six months prior to admission for children 19 months through 24 months of age;

(d) Within 12 months prior to admission for children two years of age through five years of age;

(e) Within 24 months prior to admission for children six years of age and above.

EXCEPTIONS:

(i) Children transferring from one facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare or social services, or approved by a licensed family day care system:

If the initial report of physical examination and immunizations is submitted to the new home, no additional examination is required. If the initial report is not available, a report of physical examination and immunizations is required.

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(ii) Physical examinations are not required for any child whose parent or guardian objects on religious ground. The parent or guardian must submit a statement noting that the parents or guardian objects on religious grounds and certifying that, to the best of the parent's or guardian's knowledge, the child is in good health and free from communicable and contagious disease.

(2) Medical reports after admission:

(a) Updated information on immunizations received shall be obtained once every six months for children under the age of two years.

(b) Updated information on immunizations received shall be obtained once between each child's fourth and fifth birthdays.

b. Form and content of medical reports:

(1) The current form approved by the Virginia Department of Health, or any other form which provides all of the same information shall be used to record immunizations received and the results of the required physical examination.

(2) Each report shall include the date of the physical examination or the dates immunizations were received, or both.

(3) Each report shall be signed by a licensed physician, the physician's designee, or an official of a local department of health.

EXCEPTION: Documentation of immunizations received is not required for any child whose parent or guardian submits an affidavit to the center stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices.

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9. An emergency medical authorization form shall be provided the home at the time the child enters care. (NOTE: At the discretion of the system this form may be part of the child care agreement required by subdivision A 6.)

a. The emergency medical authorization form shall be signed by the parent or parents, the provider, and a representative of the system.

b. A copy of the signed emergency medical authorization form shall also be filed in the child's record that is maintained in the system's office.

10. The system shall make arrangements for substitute or back-up care when a day-care provider in a member home needs assistance in any emergency or during illness or vacation. Such care may be provided by a staff person approved as a system assistant or another member provider with available enrollment capacity.

11. They system shall confer with the parent of each child at least twice a year concerning the child's progress and the parents' view of the adequacy of care being provided. This contact may be by telephone or in person at the discretion of the parent or parents involved.

B. Referral to health and social services.

1. The licensee shall have on file a written plan describing how the need for medical and social services is determined and how social services are made available, either within the system or by arrangement with specific public or private community agencies, or both. This written plan shall include the system's policy and procedures for referral of children and their parents to appropriate social, mental health, welfare and medical services.

2. The licensee shall maintain a written record of all referrals of children and their families to social, mental health, welfare, and medical services which shall include the results of such referrals, when reports of such results are provided to the system.

C. Complaint investigation. The family day-care system shall be responsible for investigation of any complaint received on any home that is a member of its system. When a system receives such a complaint, the following Standards apply:

1. The complaint shall be recorded on a complaint record which shall include at minimum the information required by 22 VAC 40-120-60 C 5 b.

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2. A copy of this completed record shall be placed in the file of the home against which the complaint was made and a copy shall be provided the regional office of the Virginia Department of Social Services from which the family day-care system's license to operate is issued. This copy shall be provided within 10 days of the date the complaint investigation is completed.
3. When the complaint concerns a specific child, a copy of the completed record shall be placed in the file of the child.
4. A complete investigation shall be made, by the licensee, of each complaint received. This investigation shall:
 - a. Be initiated within five working days following the receipt of the complaint:
 - b. Completed within 14 days following receipt of the complaint; and
 - c. Include at least one visit to the family day-care home on which the complaint was received.
5. If the complaint is found to be valid, corrective action shall be initiated immediately.
6. When the complaint includes an accusation of child abuse or neglect, the following Standards also apply:
 - a. The complainant shall be referred to the protective services unit of the local department of public welfare or social services in the locality where the home is located.
 - b. The family day-care system shall notify the local department of public welfare or social services child protective services' staff member immediately and provide all information regarding the complaint. The oral notification shall be confirmed in writing within 72 hours and a copy placed in the file of the home against which the complaint was made. Simultaneously, a copy of this written notification shall also be provided the regional office of the Virginia Department of Social Services from which the family day-care system's license to operate is issued.
 - c. The system shall make its own investigation within 24 hours. A joint investigation by the protective services worker of the local department of public welfare or social services and a representative of the system is encouraged to the maximum extent possible.

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22 VAC 40-120-60

22 VAC 40-120-60. Records.

A. General requirements.

1. Any forms used for record keeping shall contain at minimum the information specified in these Standards. Model forms, which may be copied, will be supplied by the department upon request.
2. If any model form developed by the department is not used, the substitute form shall be approved by the department.
3. All records shall be kept in a locked area.
4. The licensee shall have the responsibility for assuring that all records are treated confidentially and that information shall be made available only when needed for proper care of the children referred to homes who are members of the system. (EXCEPTION: All records shall be made available for inspection by the department's representative. See 22 VAC 40-120-10 D 3 b.)

B. Written policies and procedures. The following written policies and procedures shall be developed by the system. Copies shall be maintained in a permanent file within the system office. Those so identified shall also be permanently filed in homes that are members of the system.

1. Policies and procedures pertaining to operation and management of the system:
 - a. Written goals which clearly describe the philosophy and objectives of the family day-care system and address those areas specified in 22 VAC 40-120-20 C 1. A copy of these written goals shall be provided to each home that is a member of the system.
 - b. Written policies and procedures which address system services to be provided to member homes and services to be provided to children and their families. (See 22 VAC 40-120-20 C 2.) Copies of these policies and procedures which relate to services to be provided to member homes and to children and their families shall be provided to each home that is a member of the system.
 - c. Written by-laws, when the family day-care system is sponsored by an association or corporation.

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2. Policies and procedures pertaining to staff employed in the system office.

a. A written job description for each staff position which exists in the system office. Each job description shall address the areas identified in 22 VAC 40-120-30 B 1.

b. Written policies which outline personnel practices as they affect both the employer and employee. These policies shall include the areas identified in 22 VAC 40-120-30 B 3.

c. Written requirements for the screening and selection of volunteers, if volunteers are used. (See 22 VAC 40-120-30 D 2.)

d. Written definition of the duties and responsibilities of volunteers. (See 22 VAC 40-120-30 D 3.)

3. Policies and procedures pertaining to member homes.

a. Policies and procedures which describe the selection, evaluation, approval and general management of homes which are members of the system and cover at minimum those areas specified in 22 VAC 40-120-40 A 1.

b. Specific criteria and requirements which family day-care homes must meet to be approved as members of the system. At minimum these criteria and requirements shall address the areas specified in 22 VAC 40-120-40 B 1.

c. Policies for suspension or termination of a home that is a member of the system. (See 22 VAC 40-120-40 B 1.)

d. Copies of the policies and procedures, required by subdivisions B 3 a, b, and c shall be provided to each home that is a member of the system.

C. System records. The following records shall be maintained by the system in a permanent file within the system office. Those so identified shall also be provided to each home that is a member of the system.

1. Records on the system.

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- a. An organization chart (See 22 VAC 40-120-20 B 3 h.)
- b. Financial records which are consistent with generally accepted accounting principles and reflect a separation of system accounts from all other records. (See 22 VAC 40-120-20 D 2.)
- c. An inventory of all real property and equipment belonging to the system. (See 22 VAC 40-120-20 B 3 1.)
- d. A schedule of fees charged for services provided. (See 22 VAC 40-120-20 D 3 a.)
- e. A schedule of payments to be made to homes that are members of the system which contains the items required by 22 VAC 40-120-20 D 3 b. A copy of this schedule shall be provided to each home who is a member of the system.
- f. Minutes of all meetings of the corporate or association governing board. (See 22 VAC 40-120-20 B 2 b.)

2. Records on homes who are members of the system.

- a. An individual record shall be maintained on each home that is approved as a member of the system.
- b. This record shall be established when the home applies for membership in the system and shall be maintained in the system office.
- c. The record shall be kept current.
- d. The complete record shall be retained until two years after the home withdraws or is terminated as a member of the system.
- e. It shall contain at minimum the following information and documentation:

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(1) A copy of the agreement with the member home as required by 22 VAC 40-120-40 A 2 a. A copy of this agreement shall be on file in the member home.

(2) A copy of each compliance study completed on the home and required by 22 VAC 40-120-40 B 2 b.

(3) The report of each quarterly visit to the home as required by 22 VAC 40-120-40 B 6 a (2).

(4) A record containing the name of each child who has been referred to the home for care, the date of referral and in those cases where care has been terminated, the date and reason for termination.

(5) A notation of all technical assistance and consultation provided to the home as required by 22 VAC 40-120-40 D 3.

(6) The following personal and social data on each day-care provider.

(a) Name;

(b) Birthdate;

(c) Current address and telephone number;

(d) Last previous employment;

(e) For providers who are accepted as members of the system after the effective date of these Standards, copies of at least three references or notations of verbal references reflecting the date of the reference, the source and the content;

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(f) A statement signed by the day-care provider reporting any convictions of law violations excluding traffic violations and offenses committed before his or her eighteenth birthday which were finally adjudicated in a juvenile court or under a youth offender law;

(g) Previous experience or training, or both;

(h) Social Security number;

(i) Name and telephone number of person to contact in an emergency; and

(j) Date and reason for termination as a member of the system.

(7) The following personal and social data for each person employed by the provider as a staff member in the home:

(a) Name;

(b) Birthdate;

(c) Current address and telephone number;

(d) Position and date employed;

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(e) Last previous employment;

(f) For persons who are employed after the effective date of this chapter, copies of at least two character references or notations of verbal references reflecting the date of the reference, the source and the content;

(g) A statement signed by the staff member reporting any convictions of law violations excluding traffic violations and offenses committed before his or her eighteenth birthday which were finally adjudicated in a juvenile court or under a youth offender law;

(h) Previous experience or training, or both;

(i) Social Security number;

(j) Name and telephone number of person to contact in an emergency;

(k) Notations of formal training received following employment; and

(l) Date and reason for termination of employment.

(8) The health related statements required by 22 VAC 40-120-40 B 1 h.

(9) The provider training plan, the record of initial provider training and the record of on-going provider training required by 22 VAC 40-120-40 C 1, 2, c, and 3 c.

(10) A copy of the record of each complaint received on the home as required by 22 VAC 40-120-50 C 2. (See subdivision C 5 for content of this record.)

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3. Records of persons employed in the system office.
 - a. An individual record shall be maintained on each staff member employed in the system office.
 - b. This record shall be established when the individual is employed and shall not be destroyed until two years after employment is terminated.
 - c. The record shall be kept current.
 - d. It shall contain at minimum the following:
 - (1) Personal and social data:
 - (a) Name;
 - (b) Birthdate;
 - (c) Current address and telephone number;
 - (d) Position and date employed;
 - (e) Last previous employment;
 - (f) For persons employed after the effective date of this chapter, copies of at least three references or notations of verbal references reflecting the date of the reference, the source and

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the content;

(g) A statement signed by the employee reporting any convictions of law violations excluding traffic violations and offenses committed before his or her eighteenth birthday which were finally adjudicated in a juvenile court or under a youth offender law;

(h) Previous experience or training, or both;

(i) Social Security number;

(j) Name and telephone number of person to contact in an emergency;

(k) Notations of formal training received following employment; and

(l) Date and reason for termination of employment.

(2) The record of staff orientation required by 22 VAC 40-120-30 C 3 a.

(3) The annual plan for in-service training required by 22 VAC 40-120-30 C 3 c.

4. Records on children referred for care.

a. An individual record shall be maintained on each child accepted by the system and referred to a member home for care.

b. This record shall be established when the child is accepted for care.

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c. The record shall be kept current.

d. It shall contain at a minimum the following:

(1) A copy of the child care agreement required by 22 VAC 40-120-50 A 5, 6, and 7;

(2) A record of placement which contains the name of each home in which the child has received care, the date referred for care and the date and reason care was terminated;

(3) A copy of the medical information required by 22 VAC 40-120-50 A 8;

(4) A copy of the emergency medical authorization form required by 22 VAC 40-120-50 A 9;

(5) A record or each referral of the child and/or the family to social, mental health, welfare and medical services as required by 22 VAC 40-120-50 B 2.

e. A copy of the records required by subdivisions C 4 d (3) and (4), shall be on file in the member home in which the child is provided care.

5. Complaint records.

a. Each complaint shall be recorded on a complaint record. (See 22 VAC 40-120-50 C 1.)

b. The complaint record shall include at minimum the following information:

(1) Name and address of the family day-care home;

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- (2) Name, address and telephone number of the complainant;
- (3) Method by which the complaint was made, including the date and time received;
- (4) Person receiving the complaint;
- (5) A description of the complaint, including dates and times, where applicable;
- (6) Findings and action taken to include whether the complaint was found to be valid, invalid or validity not clearly determined;
- (7) The name of the person or persons who investigated the complaint and the date the investigation was completed; and
- (8) The date the complainant was notified of the results of the investigation.

c. When the complaint includes an accusation of child abuse or neglect, a copy of the written notification required by 22 VAC 40-120-50 C 6 shall be attached to the complaint record and filed as a permanent part of that record.

d. Release of information regarding the identity of the complainant shall be governed by the provisions of the Privacy Protection Act, Chapter 26 (§ 2.1-377 et seq.) of Title 2.1 of the Code of Virginia.