

2. Documentation of tuberculosis screening as required by 22 VAC 40-111-170 and 22 VAC 40-111-180 A; and

3. Documentation of the education and training as required by 22 VAC 40 111-230.

*Interpretation of § 120 D: The model form, "Provider Record Checklist" may be used to help ensure compliance with the requirements of this standard. The form is available on the department's website at:
http://www.dss.virginia.gov/facility/child_care/licensed/fdh/index.cgi*

Part III.

PERSONNEL

22 VAC 40-111-130. General qualifications for caregivers.

Caregivers shall:

- 1. Be of good character and reputation;**
- 2. Be physically and mentally capable of carrying out assigned responsibilities;**

Interpretation of § 130 1 and 2: The character and reputation and the capabilities of the caregiver are determined by references received on the caregiver. The provider must obtain and evaluate references for assistants and substitute providers hired after June 30, 2010 unless the assistant or substitute provider is the spouse, parent, sibling, or child of the provider (see § 120 B 7). References for the provider are obtained and evaluated by the Division of Licensing Programs as part of the initial application for licensure.

References from the following individuals are not considered objective and are not acceptable:

- a) relatives by blood or marriage; and*
- b) people who are not knowledgeable of the individual, such as recent acquaintances (who have known the caregiver less than one month).*

- 3. Be courteous, respectful, patient, and affectionate toward the children in care;**

Compliance Determination for § 130 3: Licensing inspectors will observe the interactions of children and caregivers to determine compliance with this standard.

- 4. Be able to speak, read, and write in English as necessary to:**

a. Carry out assigned job responsibilities, and

b. Communicate effectively with emergency responders; and

Intent of § 130 4: Caregivers need English literacy skills in order to perform essential functions to protect children's health and safety, such as reading warning labels on chemicals, instructions on a fire extinguisher, instruction and authorization forms, etc. English skills are also important in dealing with poison control and emergency response (911) personnel.

Compliance Determination for § 130 4: If there is a question about whether or not a caregiver has the required English literacy skills, the inspector may give the caregiver simple material printed in English and ask her to read it.

5. Meet the requirements specified in 22 VAC 40-191, Background Checks for Child Welfare Agencies.

Interpretation of § 130 5: Prior to the first day of employment (the day the caregiver starts being paid) or volunteering, a caregiver must complete the Sworn Statement or Affirmation. Before the caregiver has been employed or has volunteered at the family day home for 30 days, the provider must have received a search of the Central Registry and a Criminal History Record Check verifying the employee has no disqualifying barrier crime.

The list of barrier crimes disqualifying an individual from working in a family day home can be found at: http://www.dss.virginia.gov/facility/child_care/licensed/fdh/index.cgi

To allow sufficient time for the background checks to be completed, the Central Registry Search and Criminal History Record Check should be requested immediately upon the caregiver's employment. All the applicable background check forms may be found at the following website: http://www.dss.virginia.gov/facility/child_care/licensed/fdh/index.cgi

A caregiver may not work in a family day home if she:

- a) Has not completed the Sworn Statement or Affirmation;*
- b) Lists a barrier crime on the Sworn Statement or Affirmation;*
- c) Has a founded complaint on the Central Registry Report;*
- d) Has a barrier crime on the Criminal History Record Report;*
- e) Does not have a report from the Central Registry by her 30th day of employment; or*
- f) Does not have a report from the Criminal History Record Check by her 30th day of employment.*

New Sworn Statement or Affirmations, Central Registry Reports, and Criminal History Record Reports must be obtained on caregivers every three years.

Compliance Determination for § 130 5:

1. View the caregiver's original Sworn Statement or Affirmation. Note that it was completed prior to the caregiver's first day of employment or volunteering. View the original Central Registry Report and Criminal History Record Report. Note that they were received by the provider by the individual's 30th day of employment or volunteering.
2. View the caregiver's original Sworn Statement or Affirmation, Central Registry Report, and Criminal History Record Report to ensure new ones were obtained within three years of the dates on the last ones.

Interpretation of § 130: There are requirements for assistant and substitute providers, regardless of whether these positions are paid or unpaid.

22 VAC 40-111-140. Qualifications and requirements for providers and substitute providers.

A. Providers and substitute providers shall be 18 years of age or older.

Intent of § 140 A: Eighteen years is the age of legal consent (adulthood). The intent of this standard is to ensure that caregivers have the maturity necessary to meet the responsibilities of independently caring for a group of children. See § 120 B 3 for Compliance Determination.

B. Providers licensed after and substitute providers employed after June 30, 2010 shall have:

1. (i) A high school program completion or the equivalent or (ii) evidence of having met the requirements for admission to an accredited college or university;

Interpretation of § 140 B 1: If a person attended college there is no need to view documentation of a high school diploma or General Educational Development (GED certificate). The family day home must verify and document that its employee graduated from high school or has obtained a GED certificate. This could be documented by obtaining a transcript, a copy of the diploma, or a staff person signing that he/she called the appropriate educational authority and verified graduation. When education was obtained in a foreign country or obtained in this country and records are not available, a sworn affidavit must be submitted, giving the name and address of the school or schools attended, dates attended, whether the person attended full-time or part-time, the courses completed and length of the courses. The affidavit must be accompanied by a letter or letters from school authorities stating that the records are not available, if applicable and possible. If a letter is unobtainable, an allowable variance (AV) must be requested by the home.

2. Three months of programmatic experience;

Interpretation of § 140 B 2: "Programmatic experience" means time spent working directly with children in a group that is located away from the child's home. Work time shall be computed on the basis of full-time work experience during the period prescribed or equivalent work time over a longer period. Experience settings may include, but not be limited to, a child day program, family day home, child day center, boys and girls club, field placement, elementary school, or a faith-based organization.

Experience working with children in a group away from the child's home does not have to have been a paid position or a supervised position.

Compliance Determination for § 140 B 2: Letters from parents, child care co-workers, supervisors, ministers, etc. can be used to document programmatic experience. "Full-time" means 40 hours per week so a total of 516 hours (40 hrs/wk. X 4.3 wks/mo. X 3 mo.) of time spent working directly with children in a group that is located away from the child's home is needed to meet this standard.

3. Current certification in cardiopulmonary resuscitation (CPR), as appropriate to the age of the children in care, from the American Red Cross, American Heart Association, American Safety and Health Institute, or the National Safety Council, or current CPR certification issued within the past two years by a community college, a hospital, a rescue squad, or a fire department; and

4. Current certification in first aid from the American Red Cross, American Heart Association, American Safety and Health Institute, or the National Safety Council, or current first aid certification issued within the past three years by a community college, a hospital, a rescue squad, or a fire department.

EXCEPTION: A provider or substitute provider who is a registered nurse or licensed practical nurse with a current license from the Board of Nursing shall not be required to obtain first aid certification.

Intent of § 140 B 3 and 4: To ensure the health and safety of children in a family day home, including during off-site activities, someone who is qualified to respond to common life-threatening emergencies must be present at all times. The presence of such a qualified person can mitigate the consequences of injury and reduce the potential for death from life-threatening conditions. Having these emergency skills, and the confidence to use them, are critically important to the outcome of an emergency situation.

Interpretation of § 140 B 3 and 4: Current certification in CPR and first aid is required for all providers and substitutes, not just those licensed or hired after June 30, 2010. A registered nurse or a licensed practical nurse may not have current CPR certification so the "exception" above does not apply to CPR certification for a provider or substitute provider who is a registered nurse or licensed practical nurse. A provider or substitute provider who is a registered nurse or licensed practical nurse must have current CPR certification, but does not have to have current first aid certification.

Compliance Determination for § 140 B 3 and 4: View CPR and first aid certificates to determine if they are current and which organization issued the certification because the organization providing the training may be authorized to issue certification from another organization. For example, American Health Services provides the training, but issues American Safety and Health Institute (ASHI) first aid/CPR certification.

In 2007, Medic First Aid and American Safety and Health Institute (ASHI) were united under "Health & Safety Institute" and have a reciprocity relationship; therefore, certification from any of the three organizations would be acceptable.

Also acceptable are the first aid and CPR certificates from organizations approved by the department under the authority of the previous family day home standards. These include: American Academy of Pediatrics' Pediatric First Aid for Caregivers and Teachers (PedFACTS); Emergency First Response Corporation; Emergency Care and Safety Institute; EMS Safety Services, Inc.; and American Lifeguard Association.

C. Use of a substitute provider shall be limited to no more than a total of 240 hours per calendar year.

Intent of § 140 C: "Provider" is defined in these standards as an individual who is issued the family day home license by the Department of Social Services and who has primary responsibility in providing care, protection, supervision, and guidance of children in the family home. Limiting the use of substitutes ensures that the provider is a child's primary caregiver.

Interpretation of § 140 C: "Substitute provider" means an individual who meets the qualifications of a provider; is designated by the provider; and who provides care, protection, supervision, and guidance for children in the family day home when the provider is absent from the home for more than two hours. A provider may use a substitute provider (or more than one substitute provider) for a total of 240 hours per calendar year to allow the provider absences for vacations, doctors' appointments, etc.

D. A substitute provider shall record and sign the time of arrivals and departures on each day that the substitute provider works.

Interpretation of § 140 D: Substitute providers may use the model form "Substitute Provider Time Sheet" to record their time of arrival and departure.

The form is available on the department's website at:
http://www.dss.virginia.gov/facility/child_care/licensed/fdh/index.cgi

Compliance Determination for § 140 C and D: View the substitute provider's record to see the documentation of arrivals and departures.

22 VAC 40-111-150. Qualifications and requirements for assistants.

A. Assistants shall be 16 years of age or older:

See § 120 B 3 for Compliance Determination.

Interpretation of § 150 A: A provider may use a volunteer younger than age 16 if the individual is not acting as an assistant nor required because the provider exceeds 16 points.

B. An assistant under the age of 18 years of age shall always work under the direct supervision of the provider or substitute provider. Direct supervision means being able to hear or see the assistant and children at all times.

Intent of § 150 A and B: Research in brain development and functioning in teenagers indicates that teenagers' responses to situations are more emotional and impulsive, and show less reasoned judgment, than adult responses.

C. An assistant 18 years of age or older shall not be left alone with children in care for more than two hours per day.

Intent of § 150 C: "Assistant" means an individual who helps the provider or substitute provider in the care, protection, supervision, and guidance to children in the home. Since assistants are not required to have the education and experience to meet the needs of the children in care, adult assistants may only be left alone with children for short periods of time while the provider is not present at the home (provided the assistant does not exceed her maximum 16 points (see § 570) This allows the provider with an assistant some flexibility in the daily routine operation of the family day home. Typically, it would be used to allow the provider to leave the home to drop-off and/or pick-up children from school, etc. The total time permitted for all assistants left alone with children is 2 hours per day.

Compliance Determination for § 150 C: Providers are not required to document the periods of time an assistant 18 years of age or older is left alone with the children. If there is a question about compliance with this standard, compliance can be determined by viewing the "Information for Parents" form to see what was listed as the amount of time an adult assistant is regularly scheduled to be with the children in the provider's absence (as required by § 70 A 15); viewing the parent's permission for transportation (as required by § 980) to determine the regularly scheduled trips; and viewing the vehicle used for transportation to determine if there are enough safety restraints (as required by § 1010) for all children in care to be safely transported at one time.

D. An assistant 18 years of age or older who is left alone with children in care shall have:

- 1. Current certification in cardiopulmonary resuscitation (CPR), as appropriate to the age of the children in care, from the American Red**

Cross, American Heart Association, American Safety and Health Institute, or National Safety Council, or current CPR certification issued within the past two years by a community college, a hospital, a rescue squad, or a fire department; and

2. Current certification in first aid from the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety Council, or current first aid certification issued within the past three years by a community college, a hospital, a rescue squad, or a fire department.

EXCEPTION: An assistant who is a registered nurse or licensed practical nurse with a current license from the Board of Nursing shall not be required to obtain first aid certification.

Intent of § 150 D: To ensure the health and safety of children in a child care setting, including during off-site activities, someone who is qualified to respond to common life-threatening emergencies must be present at all times. The presence of such a qualified person can mitigate the consequences of injury and reduce the potential for death from life-threatening conditions. Having these emergency skills, and the confidence to use them, are critically important to the outcome of an emergency situation.

E. An assistant 18 years of age or older who meets the requirements for a substitute provider may act as the substitute provider when the provider is absent from the home for more than two hours.

Interpretation of § 150 E: An individual whose job description classifies her as an assistant may also act as a substitute provider if she also meets all the qualifications for a substitute provider in § 140 (education, experience, first aid and CPR certification). The assistant who is temporarily acting as a substitute provider is limited to 240 hours per calendar year for providing care in the provider's absence and must record her arrivals and departures as required in § 140. If an assistant needs to switch to the role of a substitute provider, this change should be reflected in their caregiver's record, as required by § 120 B 4.

Part IV. HOUSEHOLD MEMBERS

22 VAC 40-111-160. Attributes for household members.

Individuals 14 years of age and older who reside in the family day home shall:

- 1. Display behavior that demonstrates emotional stability;**
- 2. Be of good character and reputation; and**

3. Meet the requirements specified in 22 VAC 40-191, Background Checks for Child Welfare Agencies.

Compliance Determination for § 160.3:

- a) *For an individual to be considered to be residing in the family day home, the home must be the individual's principal, legal dwelling place. The individual's legal dwelling place can be verified by:
1) Confirming with neighbors or other collateral contacts that the individual lives in the home;
2) Observing the home to see if it contains indicators of the individual's living there (furnishings, household items, clothing); or
3) Viewing the individual's voter registration card or driver's license.*
- b) *The family day home must provide a safe, healthy, and nurturing environment for children. Observe household members who are present during the inspection to determine if the household members behave in such a way that they pose no risk to the health, safety, or welfare of children.*
- c) *View the adult household member's original Sworn Statement or Affirmation to ensure there are no barrier crimes. Note that it was completed upon the home's application for licensure or the individual's beginning to reside in the home. View the adult household member's original Central Registry Report and Criminal History Record Report. Note that they were received by the provider within 30 days of the home's application for licensure or of the individual's beginning to reside in the home or turning 18 years of age.*
- d) *View the adult household member's original Sworn Statement or Affirmation, Central Registry Report, and Criminal History Record Report to ensure they are current (obtained within three years of the dates on the last ones).*
- e) *For household members 14 to 18 years of age, view the individual's original Central Registry Report. Note that it was received by the provider within 30 days of the home's application for licensure or of the individual's beginning to reside in the home or turning 14 years of age and note that it is current (obtained within three years of the dates on the last one).*

Interpretation of § 160: *The model form, "Checklist for Adult Household Members" may be used to help comply with the requirements for household members. The form is available on the department's website at:*

http://www.dss.virginia.gov/facility/child_care/licensed/fdh/index.cgi

If an individual visits in the family day home for an extended period of time, follow the interpretation of the definition of 'residence' to determine if the family day home is the individual's legal residence or if the individual resides elsewhere. If the family day home is the person's legal residence, the person is a household member and must comply with the requirements for household members in these standards and the regulation 'Background Checks for Child Welfare Agencies'.

Part V.
PHYSICAL HEALTH OF CAREGIVERS AND HOUSEHOLD MEMBERS

22 VAC 40-111-170. Initial tuberculosis screening for caregivers and household members.

A. The provider shall obtain from each caregiver at the time of hire and each adult household member prior to coming into contact with children a current Report of Tuberculosis Screening form published by the Virginia Department of Health or a form consistent with it documenting the absence of tuberculosis in a communicable form.

Interpretation of § 170 A: "Coming into contact with" means the person is in close enough proximity to the children to share air space. According to the Virginia Department of Health website, "Tuberculosis spreads through the air. When a person with contagious tuberculosis coughs, laughs, sings, etc., the tuberculosis bacteria are released into the air. These tuberculosis bacteria can remain in the air for many hours. Anyone who breathes this air that contains tuberculosis bacteria may become infected." No childcare shall be provided by any caregiver until the tuberculosis screening reports an absence of tuberculosis for each caregiver and household member. Household members are individuals who reside in the family day home. Follow the interpretation of the definition of 'residence'. Visitors in the family day home are not required to obtain tuberculosis screenings.

B. The form shall have been completed within the last 30 days and be signed by a physician, physicians' designee, or an official of the local health department.

*Interpretation of § 170: The "Report of Tuberculosis Screening" form is available on the department's website at:
http://www.dss.virginia.gov/facility/child_care/licensed/fdh/index.cgi*

22 VAC 40-111-180. Subsequent tuberculosis screening for caregivers and household members.

A. The provider shall obtain for each caregiver and adult household member a current Report of Tuberculosis Screening form, in accordance with the requirements in 22 VAC 40-111-170, every two years from the date of the first screening or more frequently as recommended by a physician or the local health department.

B. Within 30 days of a caregiver's or adult household member's coming into contact with a known case of infectious tuberculosis, the provider shall obtain for the individual a new Report of Tuberculosis Screening form in accordance with the requirements in 22 VAC 40-111-170. Until a new screening form is issued that

documents the absence of tuberculosis in a communicable form, the caregiver or adult household member shall not have contact with children.

C. The provider shall immediately obtain a new Report of Tuberculosis Screening form in accordance with the requirements in 22 VAC 40-111-170 for any caregiver or adult household member who develops chronic respiratory symptoms of three weeks duration. Until a new screening form is issued that documents the absence of tuberculosis in a communicable form, the caregiver or adult household member shall not have contact with children.

Intent of § 180 C: The purpose of this standard is to ensure that a person obtains a medical diagnosis to rule out tuberculosis if he has “chronic respiratory symptoms of three weeks duration.” An individual with a documented medical diagnosis of asthma, emphysema, or other chronic respiratory illness that causes the respiratory symptoms would only have to obtain a tuberculosis screening every 2 years from the date of the first screening or more frequently as recommended by a physician or the local health department.

22 VAC40-111-190. Physical and mental health examinations for caregivers and household members.

A. The provider or the department's representative may require a report of examination by a licensed physician or mental health professional when there are indications that a caregiver's or household member's physical or mental health may endanger the health, safety, or well-being of children in care.

Compliance Determination for § 190 A: The family day home must provide a safe, healthy, and nurturing environment for children. Observe the caregivers' and household members who are present during the inspection to determine if their health or behavior may pose a risk to the health, safety, or welfare of children. If in the inspector's opinion, the individual's health or behavior may pose a risk to children, require a report from a licensed physician or psychologist, as appropriate, that documents that the individual is free from any physical or mental condition that may pose a risk to children.

B. A caregiver or household member who is determined by a licensed physician or mental health professional to show an indication of a physical or mental condition that may endanger the health, safety, or well-being of children in care or that would prevent the performance of duties shall be removed immediately from contact with children and food served to children until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.