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Legislative Document

No. 1748

S.P. 647

In Senate, December 22, 2017

An Act Regarding Rules Governing Family Child Care Provider Licensing

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 19, 2017. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator MILLETT of Cumberland.
Cosponsored by Representative POULIOT of Augusta and
Senators: CARSON of Cumberland, DIAMOND of Cumberland, LANGLEY of Hancock,
MAKER of Washington, Representatives: FARNSWORTH of Portland, GATTINE of
Westbrook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §7702-A, sub-§3, ¶C**, as amended by PL 2015, c. 497, §1, is
3 further amended to read:

4 C. Section 8302-A, subsection 1, paragraphs B to J and subsection 2, paragraphs A
5 to F and H to ~~K~~ L.

6 **Sec. 2. 22 MRSA §8302-A, sub-§2**, as amended by PL 2015, c. 497, §3, is
7 further amended to read:

8 **2. Rules for family child care providers.** Rules for family child care providers
9 must include, and are limited to, rules pertaining to the following:

- 10 A. Cardiopulmonary resuscitation;
- 11 B. Water for drinking and cooking;
- 12 C. Wastewater;
- 13 D. Rabies vaccinations for pets;
- 14 E. Recording the times, reasons and numbers of children involved when more than
15 12 children are cared for;
- 16 F. Ongoing training for providers on health and safety issues, including training on
17 communicable diseases. This training must be offered at times that are convenient to
18 the providers;
- 19 ~~G. Child-to-staff~~ Child-to-staff ratios. The child-to-staff ratio for toddlers must be
20 the same as the child-to-staff ratio for infants;
- 21 H. Health and safety of the children and staff;
- 22 I. Procedures for waivers of rules and for suspension and revocation of certification;
- 23 J. The age, criminal record and personal history of the family child care provider,
24 staff and members of the household; ~~and~~
- 25 K. Requiring a criminal background check for:
- 26 (1) The family child care provider;
- 27 (2) Each child care staff member whose activities involve the care or supervision
28 of children; and
- 29 (3) Each adult who has unsupervised access to children who are cared for or
30 supervised by the family child care provider.
- 31 The criminal background check must meet the requirements of 42 United States
32 Code, Section 9858f(b); and
- 33 L. The quality of the program provided.

34 Rules adopted pursuant to ~~paragraphs A to F~~ are routine technical rules pursuant to Title
35 5, chapter 375, subchapter 2-A and rules adopted pursuant to ~~paragraphs G to K~~ this
36 subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

1 For the purposes of this subsection, "infant" means a child 6 weeks of age or older and
2 under 13 months of age and "toddler" means a child 13 months of age or older and under
3 30 months of age.

4 **Sec. 3. Family child care provider licensing rule amendments.**

5 Notwithstanding anything to the contrary in the Maine Revised Statutes, Title 5, chapter
6 375 and Title 22, within 30 days after the effective date of this Act, the Department of
7 Health and Human Services shall amend its rule Chapter 33: Family Child Care Provider
8 Licensing Rule to:

9 **1. Prior rule provisions.** Include provisions that are identical in substance to the
10 following sections in the version of rule Chapter 33 that was in effect on September 15,
11 2017:

12 A. Sections 6.2.1, 6.2.2 and 6.2.4, relating to parent involvement;

13 B. Section 6.1.2, relating to the availability of copies of the rule;

14 C. Sections 7.1 to 7.10, relating to rights for children in family child care programs;

15 D. Section 10.1.4, relating to the ages of children living with the provider who are
16 counted in the staff-to-child ratio; and

17 E. Sections 6.3.5, 7.9 and 7.12, relating to, respectively, compliance with the federal
18 Americans with Disabilities Act of 1990, rights to a service plan and reasonable
19 modifications and accommodations;

20 **2. Infant, toddler and preschool child; definitions.** In section 1.B, define "infant"
21 to mean a child 6 weeks of age or older and under 13 months of age, "toddler" to mean a
22 child 13 months of age or older and under 30 months of age and "preschool child" to
23 mean a child 30 months of age or older and under 5 years of age;

24 **3. CPR, first aid and mandated reporter training.** In section 9.C, require
25 providers to complete cardiopulmonary resuscitation, first aid and mandated reporter
26 training within 30 days of employment; and

27 **4. Provider age.** In section 2.A.2, require providers to be at least 18 years of age.

28 **SUMMARY**

29 This bill requires the Department of Health and Human Services to amend its rule
30 Chapter 33: Family Child Care Provider Licensing Rule to include provisions relating to
31 parent involvement, the availability of copies of the rule, rights for children, the ages of
32 children living with a provider who are counted in the staff-to-child ratio, compliance
33 with the federal Americans with Disabilities Act of 1990, reasonable modifications and
34 accommodations and rights to a service plan that are identical in substance to the rule
35 Chapter 33 that was in effect on September 15, 2017. It defines the terms "infant,"
36 "toddler" and "preschool child," requires providers to complete cardiopulmonary
37 resuscitation, first aid and mandated reporter training within 30 days of employment and
38 requires providers to be at least 18 years of age. It requires the child-to-staff ratio for
39 toddlers to be the same as the child-to-staff ratio for infants. It requires the department to

1 adopt rules pertaining to the quality of the program provided. It provides that rules for
2 family child care providers adopted by the department are major substantive rules.