

# Child Care Act STUDY GUIDE



A publication of the Illinois Department  
of Children and Family Services

# **The Child Care Act Study Guide**

A publication of the Illinois Department of Children and Family Services  
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Thank you for joining the exciting field of child care licensing. As you begin your career in this specialty area of child welfare, it is important to remember that the process of licensing is a *regulatory* function. Accordingly, the regulations you will be required to enforce have a basis in the law. The Child Care Act of 1969 as amended is the law in Illinois from which all child care licensing standards are established. It is not necessary that you memorize the Child Care Act of 1969, however you **must** know how the Act is organized, and how to navigate through the sections. You will quickly discover that you will have to review multiple sections of the Act in order to find answers to many common licensing questions. Furthermore, when you are in the field the questions and situations you will encounter will be application based, which will require a working knowledge of the Act in order to perform your job duties. The attached Study Guide was developed to assist you in becoming familiar with the Child Care Act of 1969.

### HOW TO USE THE STUDY GUIDE

The Study Guide is divided into three units. The first unit follows the text of the Child Care Act and summarizes the content of each section. As you peruse the Act, use this part of the Study Guide to identify the key concepts of each section.

Unit 2 of the Study Guide provides a series of open-ended questions designed to help you learn where you can find specific points of the law. Many of these questions are application based and will give you practice in locating the answers to specific questions you are likely to encounter in the field. Read the questions and use your knowledge of the law to locate the answer(s) in the Act. The section(s) that address each concept within the questions are provided in Appendix A.

Unit 3 of the Study Guide consists of sample scenario questions and multiple choice questions much like those you will encounter when you take the Child Care Act examination. Read each question carefully, consider each possible answer, and then locate the correct answer in the Act. The correct answers can be found in the sections of the Child Care Act as referenced at the end of each question.

As you study the Child Care Act and prepare for the examination, remember this Study Guide is meant to be a tool to help you understand the Act. It is not meant to be a substitute for reading and studying the actual Child Care Act, nor should this guide ever be used in the field.

Once again, welcome. We hope you find personal fulfillment working in the specialty area of licensing.

Sincerely,

THE STATE WIDE CHILD CARE ACT COMMITTEE

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# UNIT ONE: SUMMARY OF THE CHILD CARE ACT

## Section 1: Name of Act

This Act shall be known and may be cited as the Child Care Act of 1969.

## Section 2: Terms Used in the Act

Terms used in the Child Care Act, unless the context otherwise requires; have the meanings ascribed to them in Sections 2.01 through 2.23.

### Section 2.01: Definition of "Child"

"Child" means any person under 18 years of age.

For purposes of admission to and residence in child care institutions and maternity centers, the term also means any person under 21 years of age who is referred by a parent or guardian, including an agency having legal responsibility for the person pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987.

Termination of care for such persons under 21 years of age shall occur no later than 90 days following completion of a public school secondary education program or the individual's eligibility for such a program.

### Section 2.01a: Definition of "Homeless Youth"

"Homeless youth" has the same meaning as in Section 5 of "An Act creating the Department of Children and Family Services, codifying its powers and duties, and repealing certain Acts and Sections herein named", approved June 4, 1963, as amended.

### Section 2.02: Definition of "Department"

"Department" means the Illinois Department of Children and Family Services.

### Section 2.03: Definition of "Guardian"

"Guardian" means the guardian of the person of a minor.

### Section 2.04: Definition of "Related"

"Related" means any of the following relationships by blood, marriage, or adoption:

- |               |               |                     |
|---------------|---------------|---------------------|
| • parent      | • grandparent | • great-grandparent |
| • great-uncle | • great-aunt  | • brother           |
| • sister      | • stepparent  | • stepbrother       |
| • stepsister  | • uncle       | • aunt              |
| • nephew      | • niece       | • first cousin      |

### Section 2.05: Definition of "Facility for Child Care" or "Child Care Facility"

"*Facility for child care*" or "*child care facility*" means any person, group of persons, agency, association or organization, whether established for gain or

otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act, established and maintained for the care of children.

"*Child care facility*" includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act.

Section 2.06: Definition of "Child Care Institution"

"*Child care institution*" means a child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both.

This term includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year.

**Exemptions**

This term does not include:

- (a) Any State-operated institution for child care established by legislative action;
- (b) Any juvenile detention or shelter care home established and operated by any county or child protection district established under the "Child Protection Act";
- (c) Any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act;
- (d) Any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools; grades one through 12, or taught in public elementary schools, high schools, or both elementary and high schools, and which operates on a regular academic school year basis; or,
- (e) Any facility licensed as a "group home" as defined in the Child Care Act.

Section 2.07: Definition of "Maternity Center"

"*Maternity center*" means a facility in which any person, agency, or corporation other than one licensed as a foster family home or group home under the Child Care Act, receives, treats or cares for one or more unwed pregnant girls under 18 years of age.

## **Exemption**

This term does not include any facility licensed under the "*Hospital Licensing Act*."

### Section 2.08: Definition of "Child Welfare Agency"

"*Child welfare agency*" means a public or private child care facility, receiving any child or children for the purpose of placing or arranging for the placement of the child or children in foster family homes or other facilities for child care, apart from the custody of the child's or children's parents.

This term includes all agencies established and maintained by a municipality or other political subdivision of the State of Illinois to protect, guard, train or care for children outside their own homes.

## **Exemptions**

This term does not include any circuit court or duly appointed juvenile probation officer or youth counselor of the court, who receives and places children under an order of the court

### Section 2.09: Definition of "Day Care Center"

"*Day care center*" means any child care facility which regularly provides day care for less than 24 hours per day for:

- (1) more than 8 children in a family home, or
- (2) more than 3 children in a facility other than a family home, including senior citizen buildings.

## **Exemptions**

This term does not include the following:

- (a) programs operated by (i) public or private elementary school systems or secondary level school units or institutions of higher learning which serve children who shall have attained the age of 3 years; or (ii) private entities on the grounds of public or private elementary or secondary schools and that serve children who have attained the age of 3 years, except that this exception applies only to the facility and not to the private entities' personnel operating the program;
- (b) programs or that portion of the program which serves children who shall have attained the age of 3 years and which are recognized by the State Board of Education;

- (c) educational program or programs serving children who shall have attained the age of 3 years and which are operated by a school which is registered with the State Board of Education and which is recognized or accredited by a recognized national or multistate educational organization or association which regularly recognizes or accredits schools;
- (d) programs which exclusively serve or that portion of the program which serves handicapped children who shall have attained the age of 3 years but are less than 21 years of age and which are registered and approved as meeting standards of the State Board of Education and applicable fire marshal standards;
- (e) facilities operated in connection with a shopping center or service, religious services or other similar-facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises and readily available;
- (f) any type of day care center that is conducted on federal government premises;
- (g) special activities programs, including athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable and governmental organizations;
- (h) part day child care facilities as defined in Section 2.10 of the Child Care Act;
- (i) programs or that portion of the program which:
  - (1) serves children who shall have attained the age of 3 years;
  - (2) is operated by churches or religious institutions as described in Section 501(c)(3) of the federal Internal Revenue Code;
  - (3) receives no governmental aid;
  - (4) is operated as a component of a religious, nonprofit elementary school;
  - (5) operates primarily to provide religious education, and
  - (6) meets appropriate State or local health and fire safety standards.

## **Definition of "Children Who Shall Have Attained the Age of 3 Years"**

For purposes of (a), (b), (c), (d) and (i) of this Section, "children who have attained the age of 3 years" means children who are three years of age, but less than four years of age, at the time of enrollment in the program.

### Section 2.10: Definition of "Part Day Care Child Facility"

*"Part day child care facility"* means a facility:

- for which written notification has been filed pursuant to subsection (b) of Section 3 of the Child Care Act; and
- which is conducted by a church, religious organization or social service agency in which individual children are provided care, on an intermittent basis, for up to 10 hours per seven day week.

Any facility which provides intermittent care for up to 10 hours per 7 day week shall not provide such care for more than 8 hours in any given day during the 7 day week.

Any facility which provides intermittent care for up to 10 hours per 7 day week shall provide at least one caregiver per 20 children.

Any facility which operates for more than 10 hours per 7 day week or charges a fee for its services shall maintain written records indicating the following in order to verify that the facility is operating within the bounds set by this definition:

- parent's name;
- emergency phone numbers; and
- the number of hours each child is served.

### Section 2.11: Definition of "Day Care Agency"

*"Day care agency"* means any person, group of persons, public or private agency, association or organization which undertakes to provide one or more day care homes with administrative services including, but not limited to, consultation, technical assistance, training, supervision, evaluation and provision of or referral to health and social services under contractual arrangement.

### Section 2.16: Definition of "Group Home"

*"Group home"* means a child care facility which provides care for no more than 10 children placed by and under the supervision of a licensed child welfare agency with these homes being owned or rented, staffed, maintained and otherwise operated by the agency.

## Section 2.17: Definition of "Foster Family Home"

"*Foster family home*" means a facility for child care in:

- residences of families who receive no more than 8 children unrelated to them - - unless all the children are of common parentage; or
- residences of relatives who receive no more than 8 related children placed by the Department, unless the children are of common parentage for the purpose of providing family care and training for the children on a full-time basis.

### **Exception for Purposes of Adoption**

The Director of Children and Family Services, pursuant to Department regulations, may waive the limit of 8 children unrelated to an adoptive family for good cause and only to facilitate an adoptive placement.

The family's or relative's own children, under 18 years of age, shall be included in determining the maximum number of children served.

### **Definition of "Relative"**

For purposes of this Section, a "relative" includes any person, 21 years of age or over, other than the parent, who:

- (i) is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt; or
- (ii) is the spouse of such a relative; or
- (iii) is a child's step-father, step-mother, or adult step-brother or step-sister.

"*Relative*" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person.

### **Definition of "Foster Family Home"**

The term "*foster family home*" includes homes receiving children from:

- any State-operated institution for child care; or,
- from any agency established by a municipality or other political subdivision of the State of Illinois authorized to provide care for children outside their own homes.

The term "foster family home" does not include an "adoption-only home" as defined in Section 2.23 of the Child Care Act.

### **Types of "Foster Family Homes"**

The types of foster family homes are defined as follows:

- (a) "*Boarding home*" means a foster family home which receives payment for regular full-time care of a child or children.
- (b) "*Free home*" means a foster family home other than an adoptive home which does not receive payments for the care of a child or children.
- (c) "*Adoptive home*" means a foster family home which receives a child or children for the purpose of adopting the child or children.
- (d) "*Work-wage home*" means a foster family home which receives a child or children who pay part or all of their board by rendering some services to the family not prohibited by the Child Labor Law or by standards or regulations of the Department prescribed under the Child Care Act.

The child or children may receive a wage in connection with the services rendered the foster family.

- (e) "*Agency-supervised home*" means a foster family home:
  - under the direct and regular supervision of:
    - a licensed child welfare agency;
    - the Department of Children and Family Services;
    - a circuit court; or
    - any other State agency which has authority to place children in child care facilities, and
  - which receives no more than 8 children, unless of common parentage, who are placed and are regularly supervised by one of the specified agencies.
- (f) "*Independent home*" means a foster family home, other than an adoptive home:
  - which receives no more than 4 children, unless of common parentage, directly from parents, or other legally responsible persons,  
by independent arrangement; and
  - which is not subject to direct and regular supervision of a specified agency except as such supervision pertains to licensing by the Department.

### Section 2.18: Definition of "Day Care Home"

"*Day care homes*" means family homes which receive more than 3 - - up to a maximum of 12 - - children for less than 24 hours per day.

The number counted includes:

- the family's natural or adopted children; and
- all other persons under the age of 12.

#### **Exemption**

The term does not include facilities which receive only children from a single household.

### Section 2.20: Definition of "Group Day Care Home"

"*Group day care home*" means a family home which receives more than 3 - - up to a maximum of 16 - - children for less than 24 hours per day.

The number counted includes:

- the family's natural or adopted children; and
- all other persons under the age of 12.

### Section 2.21: Definition of "Youth Emergency Shelter"

"*Youth Emergency Shelter*" means a child care facility licensed by the Department to provide overnight shelter, and referral for other services, to homeless youth under 18 years of age in accordance with the requirements of the Child Care Act and applicable rules of the Department.

### Section 2.22: Definition of "Secure Care Facility"

"*Secure Child Care Facility*" means any child care facility licensed by the Department to provide secure living arrangements for children under 18 years of age who are subject to placement in facilities under the Children and Family Services Act and who are not subject to placement in facilities for whom standards are established by the Department of Corrections under Section 3-15-2 of the Unified Code of Corrections and which comply with the requirements of the Child Care Act and applicable rules of the Department and which shall be consistent with requirements established for child residents of mental health facilities under the Juvenile Court Act of 1987 and the Mental Health and Developmental Disabilities Code.

"*Secure Child Care Facility*" also means a facility that is designed and operated to ensure that all entrances and exits from the facility, a building, or a distinct part of the building are under the exclusive control of the staff of the facility, whether

or not the child has the freedom of movement within the perimeter of the facility, building, or distinct part of the building.

Section 2.23: "Adoption-only home" means a family home that receives only children whose parents' parental rights have been terminated or surrendered for the purpose of adoption only.

### Section 3: Requirement to Be Licensed and Provide Written Notification

#### (a) Who May Operate A Child Care Facility

No person, group of persons or corporation may operate or conduct any facility for child care, as defined in the Child Care Act, without a license or permit issued by the Department - - or without being approved by the Department as meeting the standards established for such licensing.

#### **Exemptions**

The following facilities are not required to have a child care license from DCFS:

- facilities for whom standards are established by the Department of Corrections under Section 3-15-2 of the Unified Code of Corrections;
- facilities defined in Section 2.10 of the Child Care Act; and
- programs or facilities licensed by the Illinois Department of Human Services under the Alcoholism and Other Drug Abuse and Dependency Act.

#### (b) Written Notification to DCFS by Part-Day Child Care Facilities

No part day child care facility - - as described in Section 2.10 - - may operate:

- unless the facility files written notification to the Department; and
- complies with Section 7.1 of the Child Care Act (required records).

Notification:

- shall include a notarized statement by the facility that the facility complies with state or local health standards and state fire safety standards; and
- shall be filed with the Department every 2 years.

(c) DCFS Policies and Activities

The Director of the Department shall establish policies and coordinate activities relating to child care licensing, licensing of day care homes and day care centers.

(d) Exempt Facilities May Apply for Licensure

Any facility or agency which is exempt from licensing may apply for licensing if licensing is required for some government benefit.

Section 3.1: Licenses for Secure Care Facilities

The Department shall establish standards for licensing secure child care facilities which comply with the requirements of the Child Care Act, section 2-27.1 of the Juvenile Court Act of 1987, applicable requirements of the Mental Health and Developmental Disabilities Code, and applicable rules of the Department. On or before January 1, 1999, the Department shall develop rules that set standards and the degree of need for licensed secure facilities. Within 90 days after the effective date of this amendatory Act of 1998 the Director shall appoint an advisory committee to assist the Department in the development of these rules.

Section 4: License Requirement/Application/Notice

(a) Who Must Be Licensed

Any person, group of persons or corporation who or which receives children or arranges for care or placement of one or more children unrelated to the operator must apply for a license to operate one of the types of facilities defined in Sections 2.05 through 2.19 and in Section 2.22 of the Child Care Act.

Any relative who receives a child or children for placement by the Department on a full-time basis may apply for a license to operate a foster family home as defined in Section 2.17 of the Child Care Act.

(b) Application for Licensure

Application for a license to operate a child care facility must be made to the Department in the manner and on forms prescribed by it.

**Application for Foster Family Home**

An application to operate a foster family home shall include, at a minimum:

- a completed written form;
- written authorization by the applicant and all adult members of the applicant's household to conduct a criminal background investigation;
- medical evidence in the form of a medical report, on forms prescribed by the Department, that the applicant and all members of the household are free from communicable diseases or physical and mental conditions that affect their ability to provide care for the child or children;
- the names and addresses of at least 3 persons not related to the applicant who can attest to the applicant's moral character;
- and, fingerprints submitted by the applicant and all adult members of applicant's household.

(c) Public Notification

The Department shall notify the public when a child care institution, maternity center, or group home licensed by the Department undergoes a change in:

- (i) the range of care or services offered at the facility,
- (ii) the age or type of children served, or
- (iii) the area within the facility used by children.

The Department shall notify the public of the change in a newspaper of general circulation in the county or municipality in which the applicant's facility is or is proposed to be located.

(d) Issuance of License

If, upon examination of the facility - - and investigation of persons for care of the children - - the Department is satisfied that the facility and responsible persons reasonably meet standards prescribed for the type of facility for which application is made, it shall issue a license in proper form, designating on that license:

- the type of child care facility, and
- the number of children to be served at any one time (except for a child welfare agency).

## Section 4.1: Criminal Background Investigations

The Department shall require that each child care facility license applicant as part of the application process and each employee of a child care facility as a condition of employment, authorize an investigation to determine if such applicant or employee has ever been charged with a crime and if so, the disposition of those charges.

This authorization shall indicate the scope of the inquiry and the agencies which may be contacted.

Upon this authorization, the Director shall request and receive information and assistance from any federal, State or local governmental agency as part of the authorized investigation.

Each applicant shall submit his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. The Department of State Police shall charge a fee the criminal history records check which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check.

The Department of State Police shall provide information concerning any criminal charges, and their disposition, now or hereafter filed, against an applicant or child care facility employee upon request of the Department of Children and Family Services when the request is made in the form and manner required by the Department of State Police.

### Results for Applicants

Information concerning convictions of a license applicant investigated under this Section, including the source of the information and any conclusions or recommendations derived from the information, shall be provided, upon request, to such applicant prior to final action by the Department on the application.

### Results for Employees/Prospective Employees

Such information on convictions of employees or prospective employees of child care facilities licensed under the Child Care Act shall be provided to the operator of such facility, and, upon request, to the employee or prospective employee.

### Confidentiality

Any information concerning criminal charges and the disposition of such charges obtained by the Department shall be confidential and may not be transmitted outside the Department, except as required herein, and may

not be transmitted to anyone within the Department except as needed for the purpose of evaluating an application or a child care facility employee.

Only information and standards which bear a reasonable and rational relation to the performance of a child care facility shall be used by the Department or any licensee.

Any employee of the Department of Children and Family Services, Department of State Police, or a child care facility receiving confidential information under this Section who gives or causes to be given any confidential information concerning any criminal convictions of a child care facility applicant, or child care facility employee, shall be guilty of a Class A misdemeanor unless release of such information is authorized by this Section.

#### Probationary Employees

A child care facility may hire, on a probationary basis, any employee authorizing a criminal background investigation under this Section, pending the result of such investigation.

Employees shall be notified prior to hiring that such employment may be terminated on the basis of criminal background information obtain by the facility.

#### Section 4.2: "Bars" to Licensure/Employment

##### (a) Failure to Authorize Background Investigation

No applicant may receive a license from the Department - - and no person may be employed by a licensed child care facility - - who refuses to authorize an investigation as required by Section 4.1.

##### (b) Bar Offenses for Child Care Facilities

No applicant may receive a license from the Department -- and no person may be employed by a child care facility licensed by the Department -- who:

- has been declared a sexually dangerous person under "An Act in relation to sexually dangerous persons, and providing for their commitment, detention and supervision," approved July 6, 1938, as amended, or
- convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961:

- (1) murder;
  - (1.1) solicitation of murder;
  - (1.2) solicitation of murder for hire;
  - (1.3) intentional homicide of an unborn child;
  - (1.4) voluntary manslaughter of an unborn child;
  - (1.5) involuntary manslaughter
  - (1.6) reckless homicide;
  - (1.7) concealment of a homicidal death;
  - (1.8) involuntary manslaughter of an unborn child;
  - (1.9) reckless homicide of an unborn child;
  - (1.10) drug induced homicide;
- (2) a sex offense under Article 11, except offenses described in Sections 11-7,11-8, 11-12, and 11-13;
- (3) kidnapping;
  - (3.1) aggravated unlawful restraint;
  - (3.2) forcible detention;
  - (3.3) harboring a runaway;
  - (3.4) aiding-and abetting child abduction;
- (4) aggravated kidnapping;
- (5) child abduction;
- (6) aggravated battery of a child;
- (7) criminal sexual assault;
- (8) aggravated criminal sexual assault;
  - (8.1) predatory criminal sexual assault of a child;
- (9) criminal sexual abuse;
- (10) aggravated sexual abuse;
- (11) heinous battery;
- (12) aggravated battery with a firearm;
- (13) tampering with food, drugs, or cosmetics;
- (14) drug induced infliction of great bodily harm;
- (15) hate crime;
- (16) stalking;
- (17) aggravated stalking;
- (18) threatening public officials;
- (19) home invasion;
- (20) vehicular invasion;
- (21) criminal transmission of HIV;
- (22) criminal abuse or neglect of an elderly or disabled person;
- (23) child abandonment;
- (24) endangering the life or health of a child;
- (25) ritual mutilation;
- (26) ritualized abuse of a child;
- (27) an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

(b-1) In addition to the other provisions of this Section, beginning January 1, 2004, no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the following offenses:

(I) BODILY HARM

- (1) Felony aggravated assault
- (2) Vehicular endangerment
- (3) Felony domestic battery
- (4) Aggravated battery
- (5) Heinous battery
- (6) Aggravated battery with a firearm
- (7) Aggravated battery of an unborn child
- (8) Aggravated battery of a senior citizen
- (9) Intimidation
- (10) Compelling organization membership of persons
- (11) Abuse and gross neglect of a long term care facility resident
- (12) Felony violation of an order of protection

(II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- (1) Felony unlawful use of weapons
- (2) Aggravated discharge of a firearm
- (3) Reckless discharge of a firearm
- (4) Unlawful use of metal piercing bullets
- (5) Unlawful sale or delivery of firearms on the premises of any school
- (6) Disarming a police officer
- (7) Obstructing justice
- (8) Concealing or aiding a fugitive
- (9) Armed violence
- (10) Felony contributing to the criminal delinquency of a juvenile

(III) DRUG OFFENSES

- (1) Possession of more than 30 grams of cannabis
- (2) Manufacture of more than 10 grams of cannabis
- (3) Cannabis trafficking
- (4) Delivery of cannabis on school grounds

- (5) Unauthorized production of more than 5 cannabis sativa plants
- (6) Calculated criminal cannabis conspiracy
- (7) Unauthorized manufacture or delivery of controlled substances
- (8) Controlled substance trafficking
- (9) Manufacture, distribution, or advertisement of look-alike substances
- (10) Calculated criminal drug conspiracy
- (11) Street gang criminal drug conspiracy
- (12) Permitting unlawful use of a building
- (13) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property.
- (14) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances.
- (15) Delivery of controlled substances.
- (16) Sale or delivery of drug paraphernalia
- (17) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance or cannabis by subcutaneous injection.
- (18) Felony possession of a controlled substance.
- (19)

(b-2) For child care facilities other than foster family homes, the Department may issue a new child care facility license to or renew the existing child care facility license of an applicant, a person employed by a child care facility, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b-1), provided that all of the following requirements are met:

- (1) The relevant criminal offense occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense.
- (2) The Department must conduct a background check and assess all convictions and recommendations of the child care facility to determine if waiver shall apply in accordance with Department administrative rules and procedures.
- (3) The applicant meets all other requirements and qualifications to be licensed as the pertinent type of child care facility under the Child Care Act and the Department's administrative rules.

(c) Additional Bar Offenses for Foster Homes

In addition to the other provisions set forth in subsection (b), no applicant may receive a license from the Department to operate a foster family home - - and no adult person may reside in a foster family home licensed by the Department - - who has been convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961, the Cannabis Control Act, and the Illinois Controlled Substances Act.

(I) OFFENSES DIRECTED AGAINST THE PERSON

(A) KIDNAPPING AND RELATED OFFENSES

- (1) Unlawful restraint

(B) BODILY HARM

- (2) Felony aggravated assault
- (3) Vehicular endangerment
- (4) Felony domestic battery
- (5) Aggravated battery
- (6) Heinous battery
- (7) Aggravated battery with a firearm
- (8) Aggravated battery of an unborn child
- (9) Aggravated battery of a senior citizen
- (10) Intimidation.
- (11) Compelling organization membership of persons
- (12) Abuse and gross neglect of a long term care facility resident
- (13) Felony violation of an order of protection

(II) OFFENSES DIRECTED AGAINST PROPERTY

- (14) Felony theft
- (15) Robbery
- (16) Armed robbery
- (17) Aggravated robbery
- (18) Vehicular hijacking
- (19) Aggravated vehicular hijacking
- (20) Burglary
- (21) Possession of burglary tools
- (22) Residential burglary
- (23) Criminal fortification of a residence or building
- (24) Arson
- (25) Aggravated arson
- (26) Possession of explosive or explosive incendiary devices.

- (III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY
  - (27) Felony unlawful use of weapons
  - (28) Aggravated discharge of a firearm.
  - (29) Reckless discharge of a firearm.
  - (30) Unlawful use of metal piercing bullets
  - (31) Unlawful sale or delivery of firearms on the premises of any school
  - (32) Disarming a police officer
  - (33) Obstructing justice.
  - (34) Concealing or aiding a fugitive.
  - (35) Armed violence.
  - (36) Felony contributing to the criminal delinquency of a Juvenile.
  
- (IV) DRUG OFFENSES
  - (37) Possession of more than 30 grams of cannabis
  - (38) Manufacture of more than 10 grams of cannabis
  - (39) Cannabis trafficking.
  - (40) Delivery of cannabis on school grounds.
  - (41) Unauthorized production of more than 5 cannabis sativa plants.
  - (42) Calculated criminal cannabis conspiracy.
  - (43) Unauthorized manufacture or delivery of controlled substances.
  - (44) Controlled substance trafficking.
  - (45) Manufacture, distribution, or advertisement of look-alike substances.
  - (46) Calculated criminal drug conspiracy.
  - (46.5) Street gang criminal drug conspiracy.
  - (47) Permitting unlawful use of a building.
  - (48) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property.
  - (49) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances.
  - (50) Delivery of controlled substances.
  - (51) Sale or delivery of drug paraphernalia.
  - (52) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance or cannabis by subcutaneous injection.

(d) Waiver for Foster Homes

Notwithstanding subsection 4.2( c), the Department may issue a new foster family home license - - or may renew an existing foster family home license - - of an applicant who was convicted of an offense described in subsection (c), provided all of the following requirements are met:

- (1) The relevant criminal offense or offenses occurred more than 10 years prior to the date of application or renewal;
- (2) The applicant had previously disclosed the conviction or convictions to the Department for purposes of a background check;
- (3) After the disclosure, the Department either placed a child in the home or the foster family home license was issued;
- (4) During the background check, the Department had assessed - - and waived - - the conviction in compliance with the existing statutes and rules in effect at the time of the waiver;
- (5) The applicant meets all other requirements and qualifications to be licensed as a foster family home under the Child Care Act and the Department's administrative rules; and
- (6) The applicant has a history of providing a safe, stable home environment and appears able to continue to provide a safe, stable home environment.

Section 4.3: Child Abuse and Neglect Reports

All child care facility license applicants - - and all current and prospective employees of a child care facility who have any possible contact with children in the course of their duties, as a condition of such licensure or employment - - shall authorize in writing on a form prescribed by the Department an investigation of the Central Register, as defined in the Abused and Neglected Child Reporting Act, to ascertain if such applicant or employee has been determined to be a perpetrator in an indicated report of child abuse or neglect.

Maintaining Records

All child care facilities as a condition of licensure pursuant to the Child Care Act shall maintain such information which demonstrates that all current employees - - and other applicants for employment - - who have any possible contact with children in the course of their duties have authorized an investigation of the Central Register as herein above required.

## Who Is Excluded

Only those current or prospective employees who will have no possible contact with children as part of their present or prospective employment may be excluded from provisions, requiring authorization of an investigation.

## Confidentiality

Such information concerning a license applicant, employee or prospective employee obtained by the Department shall be confidential and exempt from public inspection and copying as provided under Section 7 of The Freedom of Information Act

Such information:

- shall not be transmitted outside the Department, except as provided in the Abused and Neglected Child Reporting Act;
- shall not be transmitted to anyone within the Department except as provided in the Abused and Neglected Child Reporting Act; and
- shall not be transmitted to anyone within the Department except as needed for the purposes of evaluation of an application for licensure or for consideration by a child care facility of an employee.

## Penalty for Department Employees

Any employee of the Department of Children and Family Services under this Section who gives or causes to be given any confidential information concerning any child abuse or neglect reports about a child care facility applicant or child care facility employee, shall be guilty of a Class A misdemeanor, unless release of such information is authorized by Section 11.1 of the Abused and Neglected Child Reporting Act.

## Prohibition of Employee Contact During Pending CA/N Investigation

Any licensee who is informed by the Department of Children and Family Services, pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act, approved June 26, 1975, as amended, that a formal investigation has commenced relating to an employee of the child care facility - - or any other person in frequent contact with children at the facility - - shall take reasonable action necessary to insure that the employee or other person is restricted during the pendency of the investigation from contact with children whose care has been entrusted to the facility.

When a foster family home is the subject of an indicated report under the Abused and Neglected Child Reporting Act, the Department of Children and Family Services must immediately conduct a re-examination of the foster family home to evaluate whether it continues to meet the minimum standards for licensure. The

re-examination is separate and apart from the formal investigation of the report. The Department must establish a schedule for re-examination of the foster family home mentioned in the report at least once a year.

#### Section 4.4: Definition of "License Applicant"

For the purposes of background investigations authorized in the Child Care Act, "*license applicant*" means the operator or person with direct responsibility for daily operation of the facility to be licensed.

In the case of facilities to be operated in a family home, the Department may, by rule, require that other adult residents of that home also authorize such investigations.

#### Section 4.5 Children with Disabilities Training

- (a) An owner or operator of a licensed day care home or group day care home or the onsite executive director of a licensed day care center must successfully complete a basic training course in providing care to children with disabilities. The basic training course will also be made available on a voluntary basis to those providers who are exempt from the licensure requirements of the Child Care Act.
- (b) The Department of Children and Family Services shall promulgate rules establishing the requirements for basic training in providing care to children with disabilities.

#### Section 5: Licensing Activities

- (a) Examination of Facilities and Persons After Receiving an Application

In respect to child care institutions, maternity centers, child welfare agencies, day care centers, day care agencies and group homes; the Department, upon receiving application filed in proper order, shall examine the facilities and persons responsible for care of children therein.

- (b) Who May File Applications for Foster Homes and Day Care Homes

Applications may be filed on behalf of foster family homes and day care homes by:

- a licensed child welfare agency;
- a State agency authorized to place children in foster care; or
- out-of-State agencies approved by the Department to place children in this State.

Applications may be filed on behalf of day care homes by a licensed day care agency or licensed child welfare agency.

In applying for license in behalf of a home in which children are placed by and remain under supervision of the applicant agency, such agency shall certify that the home and persons responsible for care of unrelated children therein, or the home and relatives responsible for the care of related children therein, were found to be in reasonable compliance with standards prescribed by the Department for the type of care indicated.

(c) Who May Carry Out Licensing Activities

The Department shall not allow any person to examine facilities under a provision of the Child Care Act who has not passed an examination demonstrating that such person is familiar with:

- the Child Care Act; and
- with the appropriate standards and regulations of the Department

(d) Time Frames for Licenses

Non-Day Care Facilities

With the exception of day care centers, day care homes, and group day care homes, licenses shall be issued in such form and manner as prescribed by the Department and are valid for 4 years from the date issued, unless revoked by the Department or voluntarily surrendered by the licensee.

Day Care Facilities

Licenses issued for day care centers, day care homes, and group day care homes shall be valid for 3 years from the date issued, unless revoked by the Department or voluntarily surrendered by the licensee.

Timely and Sufficient Application for License Renewal

When a licensee has made timely and sufficient application for the renewal of a license - - or a new license with reference to any activity of a continuing nature - - the existing license shall continue in full force and effect for up to 30 days until the final agency decision on the application has been made.

The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, but such extensions shall be only upon good cause shown.

(e) Permits

The Department may issue one *6-month permit* to a newly established facility for child care to allow that facility reasonable time to become eligible for a full license.

If the facility for child care is a foster family home, or day care home, the Department may issue one 2-month permit only.

(f) Emergency Permits

The Department may issue an *emergency permit* to a child care facility taking in children as a result of the temporary closure for more than 2 weeks of a licensed child care facility due to a natural disaster.

An emergency permit under this subsection shall be issued to a facility only if the persons providing child care services at the facility were employees of the temporarily closed day care center - - at the time it was closed.

No investigation of an employee of a child care facility receiving an emergency permit under this subsection shall be required if that employee has previously been investigated at another child care facility.

No emergency permit issued under this subsection shall be valid for more than 90 days after the date of issuance.

(g) Authorization to Conduct Unannounced Visits

During the hours of operation of any licensed child care facility, authorized representatives of the Department may, without notice, visit the facility for the purpose of determining its continuing compliance with the Child Care Act or regulations adopted pursuant thereto.

(h) Annual Monitoring Visits

Day care centers, day care homes, and group day care homes shall be monitored at least annually by a licensing representative from the Department or the agency that recommended licensure.

Section 5.1: Transportation of Children

(a) Driver Requirements

The Department shall assure that no day care center, group home, or child care institution - - as defined in the Child Care Act - - shall on a

regular basis transport a child or children with any motor vehicle unless such vehicle is operated by a person that complies with the following requirements:

1. is 21 years of age or older;
2. currently holds a valid driver's license, which has not been revoked or suspended for one or more traffic violations during the 3 years immediately prior to the date of application;
3. demonstrates physical fitness to operate vehicles by submitting the results of a medical examination conducted by a licensed physician;
4. has not been convicted of more than 2 offenses against traffic regulations governing the movement of vehicles within a 12 month period;
5. has not been convicted of any of the following within the past 3 years:
  - reckless driving;
  - driving under the influence;
  - manslaughter; or
  - reckless homicide resulting from the operation of a motor vehicle; and
6. has signed and submitted a written statement certifying that he has not, through the unlawful operation of a motor vehicle, caused an accident which resulted in the death of any person within the 5 years immediately prior to the date of application.

#### Exceptions

Day Care Center, group homes and child care institutions may provide for transportation of a child or children for special outings, functions, or purposes that are not scheduled on a regular basis without verification, that drivers for such purposes meet the requirements of this Section.

#### (b) Persons Holding Valid Illinois School Bus Driver Permits

Any individual who holds a valid Illinois school bus driver permit issued by the Secretary of State pursuant to the Illinois Vehicle Code - - and who is currently employed by a school district or parochial school, or by a contractor with a school district or parochial school to drive a school bus transporting children to and from school - - shall be deemed in compliance with the requirements of subsection 5.1 (a).

(c) Revocation of License for Failure to Comply with This Section

Pursuant to Section 8 of the Child Care Act, the Department may revoke the license of any day care center, group home, or child care institution that fails to meet the requirements of this Section.

Section 5.2. Unsafe Children's Products

- (a) A child care facility may not use or have on the premises, on or after July 1, 2000, an unsafe children's product as described in Section 15 of the Children's Product Safety Act. This subsection (a) does not apply to an antique or collectable children's product if it is not used by, or accessible to, any child in the child care facility.
- (b) The Department of Children and Family Services shall notify child care facilities, on an ongoing basis, of the provisions of this Section and the Children's Product Safety Act and of unsafe children's products, as determined in accordance with that Act, in plain, non-technical language that will enable each child care facility to effectively inspect children's products and identify unsafe children's products. The Department of Children and Family Services shall adopt rules to carry out this section.

Section 5.3: Lunches in Day Care Homes

In order to increase the affordability and availability of day care, a day care home licensed under the Child Care Act may allow any child it receives to bring his or her lunch for consumption instead of -- or in addition to -- the lunch provided by the day care home.

Section 5.5: Smoking in Day Care Facilities

(a) Declaration by the General Assembly

The General Assembly finds and declares that:

- (1) The US. government has determined that secondhand tobacco smoke is a major threat to public health for which there is no safe level of exposure.
- (2) The U.S. Environmental Protection Agency recently classified secondhand tobacco smoke a Class A carcinogen, ranking it with substances such as asbestos and benzene.

- (3) According to U.S. government figures, secondhand tobacco smoke is linked to the lung cancer deaths of an estimated 3,000 nonsmokers per year.
- (4) Cigarette smoke is a special risk to children, causing between 150,000 and 300 000 respiratory infections each year in children under 18 months old, and endangering between 200,000 and one million children with asthma.
- (5) The health of the children of this State should not be compromised by needless exposure to secondhand tobacco smoke.

(b) Prohibition of Smoking in Day Care Centers

Beginning January 1, 1994, it is a violation of the Child Care Act for any person - - on any day when the center is in operation -- to smoke tobacco in any area of a day care center in which children are allowed, regardless of whether or not any children are present at that moment.

(c) Prohibition of Smoking in Day Care Homes & Group Day Care Homes

Beginning January 1, 1994, it is a violation of the Child Care Act for any person to smoke tobacco in any area of a day care home or group day care home in which day care services are being provided to children, while those children are present.

This subsection does not prohibit smoking in the home in the presence of a person's own children or of children to whom day care services are not then being provided.

(d) Prohibition Against Encouraging Violations of Subsections (b) and (c)

It is a violation of the Child Care Act for any person responsible for the operation of a day care center, day care home, or group day care home to knowingly allow or encourage any violation of subsection (b) or (c) of this Section.

Section 5.6. Pesticide application at day care centers.

(a) Licensed day care centers shall abide by the requirements of Sections 10.2 and 10.3 of the Structural Pest Control Act.

(b) Notification required pursuant to Section 10.3 of the Structural Pest Control Act may not be given more than 30 days before the application of the pesticide.

- (c) Each licensed day care center, subject to the requirements of Section 10.3 of the Structural Pest Control Act, must ensure that pesticides will not be applied when children are present at the center. Toys and other items mouthed or handled by the children must be removed from the area before pesticides are applied. Children must not return to the treated area within 2 hours after a pesticide application or as specified on the pesticide label, whichever time is greater.

#### Section 6: License Renewal

- (a) Who Must Apply for License Renewal

A licensed facility operating as a "child care institution", "maternity center", "child welfare agency", "day care agency" or "day care center" must apply for renewal of its license held.

The application to be made to the Department on forms prescribed by it.

- (b) Who Must Conduct the Renewal Re-examination

The Department, a duly licensed child welfare agency, or a suitable agency or person designated by the Department as its agent to do so, must re-examine every child care facility for renewal of license.

The following must be included in the re-examination process:

- an examination of the premises;
- an examination of the records of the facility as the Department considers necessary to determine that minimum standards for licensing continue to be met; and
- random surveys of parents or legal guardians who are consumers of such facilities or services to assess the quality of care at such facilities.

#### Re-examinations of Day Care and Foster Care Homes

In the case of foster family homes or day care homes under the supervision of or otherwise required to be licensed by the Department - - or under supervision of a licensed child welfare agency or day care agency - - the examination shall be by the Department or agency supervising such homes.

## Conditions Under Which Licenses Are Renewed

If the Department is satisfied that the facility continues to maintain minimum standards which it prescribes and publishes, it shall renew the license to operate the facility.

### (c) Time Frame for Reapplication After Revocation/Refusal to Renew

If a child care facility's license is revoked - - or if the Department refuses to renew a facility's license - - the facility may not reapply for a license before the expiration of 12 months following the Department's action; provided, however, that the denial of a reapplication for a license pursuant to this subsection must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of:

- satisfying the standards and rules promulgated by the Department pursuant to the Child Care Act, or,
- maintaining a facility which adheres to such standards and rules.

## Section 7: Minimum Standards

### (a) Department's Responsibilities and What Must Be Covered in Standards

#### Requirement to Prescribe and Publish Minimum Licensing Standards

The Department must prescribe and publish minimum standards for licensing:

- that apply to the various types of facilities for child care defined in the Child Care Act; and
- that are equally applicable to like institutions under the control of the Department and to foster family homes used by and under the direct supervision of the Department.

#### Requirement to Seek Advice and Assistance

The Department shall seek the advice and assistance of persons representative of the various types of child care facilities in establishing such standards.

#### Areas Which Must Be Covered in Standards

The standards prescribed and published under the Child Care Act take effect as provided in the Illinois Administrative Procedure Act, and are restricted to regulations pertaining to:

- (1) The operation and conduct of the facility and responsibility it assumes for child care;
- (2) The character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of children served. All child day care center licensees and employees who are required to report child abuse or neglect under the Abused and Neglected Child Reporting Act shall be required to attend training on recognizing child abuse and neglect, as prescribed by Department rules;
- (3) The general financial ability and competence of the applicant to provide necessary care for children and to maintain prescribed standards;
- (4) The number of individuals or staff required to insure adequate supervision and care of the children received. The standards shall provide that each child care institution, maternity center, day care center, group home, day care home, and group day care home shall have on its premises during its hours of operation at least one staff member certified in first aid, in the Heimlich maneuver and in cardiopulmonary resuscitation by the American Red cross or other organization approved by rule of the Department. Child welfare agencies shall not be subject to such a staffing requirement. The Department may offer, or arrange for the offering, on a periodic basis in each community in this State in cooperation with the American Red Cross, the American Hearth Association or other appropriate organization, voluntary programs to train operators of foster family homes and day care homes in first aid and cardiopulmonary resuscitation;
- (5) The appropriateness, safety, cleanliness and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to State laws and municipal codes to provide for the physical comfort, care and well-being of children received;
- (6) Provisions for food, clothing, educational opportunities, program, equipment and individual supplies to assure the healthy physical, mental and spiritual development of children served;
- (7) Provisions to safeguard the legal rights of children served;
- (8) Maintenance of records pertaining to the admission, progress, health and discharge of children, including, for day care centers

and day care homes, records indicating each child has been immunized as required by State regulations. The Department shall require proof that children enrolled in a facility have been immunized against Haemophilus Influenza B (HIB);

- (9) Filing of reports with the Department;
- (10) Discipline of children;
- (11) Protection and fostering of the particular religious faith of the children served;
- (12) Provisions prohibiting firearms on day care center premises except in the possession of peace officers;
- (13) Provisions prohibiting handguns on day care home premises except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside on the premises of the day care home;
- (14) Provisions requiring that any firearm permitted on day care home premises, except handguns in the possession of peace officers, shall be kept in a disassembled state, without ammunition, in locked storage, inaccessible to children and that ammunition permitted on day care home premises shall be kept in locked storage separate from that of disassembled firearms, inaccessible to children; and
- (15) Provisions requiring notification of parents or guardians enrolling children at a day care home of the presence in the day care home of any firearms and ammunition, and of the arrangements for the separate, locked storage of such firearms and ammunition.

(b) Facilities Serving Children With Special Needs

If in a facility for general child care, there are children diagnosed as mentally ill, mentally retarded or physically handicapped, who are determined to be in need of special mental treatment or of nursing care - - or both mental treatment and nursing care - - the Department shall seek the advice and recommendation of:

- the Department of Human Services;
- the Department of Public Health; or
- both Departments

regarding the residential treatment and nursing care provided by the institution.

(c) Investigation of Prospective Foster Homes re: Current Alcohol or Drug Abuse

The Department shall investigate any person applying to be licensed as a foster parent to determine whether there is any evidence of current drug or alcohol abuse in the prospective foster family.

The Department shall not license a person as a foster parent:

- if drug or alcohol abuse has been identified in the foster family; or
- if a reasonable suspicion of such abuse exists.

Exception

The Department may grant a foster parent license to an applicant identified with an alcohol or drug problem if the applicant has successfully participated in an alcohol or drug treatment program, self-help group, or other suitable activities.

(d) Requirement to Offer Consultation

The Department, in applying standards prescribed and published, as herein provided, shall offer consultation -- through employed staff or other qualified persons:

- to assist applicants and licensees in meeting and maintaining minimum requirements for a license; and
- to help them otherwise to achieve programs of excellence related to the care of children served.

Such consultation shall include providing information concerning education and training in early childhood development to providers of day care home services.

The Department may provide or arrange for such education and training for those providers who request such assistance.

(e) Provision of Licensing Standards to Licensees and Applicants

The Department shall distribute copies of licensing standards to all licensees and applicants for a license.

Each licensee or holder of a permit shall distribute copies of the appropriate licensing standards and any other information required by the Department to child care facilities under its supervision.

#### Documentation of Distribution

Each licensee or holder of a permit shall maintain appropriate documentation of the distribution of the standards. Such documentation shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

#### (f) Summaries of Day Care Licensing Standards

The Department shall prepare summaries of day care licensing standards.

#### Distribution of Summaries and Other Information

Each licensee or holder of a permit for a day care facility shall distribute a copy of the appropriate summary and any other information required by the Department, to the legal guardian of each child cared for in that facility at time when the child is enrolled or initially placed in the facility.

#### Documentation of Distribution

The licensee or holder of a permit for a day care facility shall secure appropriate documentation of the distribution of the summary and brochure. Such documentation shall be a part of the records of the facility and subject to inspection by an authorized representative of the Department.

#### (g) Distribution of Licensing Standards

The Department shall distribute to each licensee and holder of a permit copies of the licensing or permit standards applicable to such person's facility.

#### Requirement to Post Current Set of Licensing Standards

Each licensee or holder of a permit shall make available by posting at all times in a common or otherwise accessible area a complete and current set of licensing standards in order that all employees of the facility may have unrestricted access to such standards.

#### Requirement for Employees to Review Standards

All employees of the facility shall have reviewed the standards and any subsequent changes.

#### Documentation of Employees' Review of Standards

Each licensee or holder of a permit shall maintain appropriate documentation of the current review of licensing standards by all employees. Such records shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

(h) Inclusion of Exemptions on Religious and Clinical Grounds

Any standards involving physical examinations, immunization, or medical treatment shall include appropriate exemptions:

- for children whose parents object thereto on the grounds that they conflict with the tenets and practices of a recognized church or religious organization, of which the parent is an adherent or member; and
- for children who should not be subjected to immunization for clinical reasons.

Section 7.1: Required Records for Day Care Facilities

(a) Persons To Whom Facility May Release Custody of a Child

- (1) A facility described in Section 2.09, 2.10, or 2.18 [i.e., a day care center, part day child care facility, and day care home] shall retain on file a list provided by the legal guardian of each child under its care, designating persons to whom it may release custody of such child, including the following:
  - (A) a primary list containing the names of persons to whom the facility can expect to usually release custody of the child, and
  - (B) a contingency list containing the names of persons to whom the facility can expect to occasionally release custody of the child, and setting forth the manner in which such child may leave the facility in the custody of any such person.
- (2) No such facility shall release custody of any child under its care:
  - in any manner not authorized by the child's guardian, or
  - to any person who is not known to the operators of the facility as, or cannot present sufficient identification proving himself to be, an individual listed by the child's guardian as one to whom custody of the child may be released.

(b) Daily Departure Record

Each such facility shall:

- keep a daily departure record for each child under its care who leaves the facility with a person included on the contingency list, and
- record thereon:
  - the times the child leaves the facility,
  - the manner of departure, and
  - the persons with whom such child leaves.

Section 7.2: Employer Discrimination

(a) Definitions

"Employer"

For purposes of this Section, "*employer*" means a licensee or holder of a permit subject to the Child Care Act.

"Employee"

"*Employee*" means an employee of such an employer.

(b) "Whistle Blower" Protection

No employer shall discharge, demote or suspend - - or threaten to discharge, demote or suspend - - or in any manner discriminate against any employee who:

- (1) makes any good faith oral or written complaint of any employer's violation of any licensing or other laws (including but not limited to laws concerning child abuse or the transportation of children) which may result in closure of the facility pursuant to Section 11.2 of the Child Care Act to the Department or other agency having statutory responsibility for the enforcement of such laws or to the employer or representative of the employer;
- (2) institutes or causes to be instituted against any employer any proceeding concerning the violation of any licensing or other laws, including a proceeding to revoke or to refuse to renew a license under Section 9 of the Child Care Act;
- (3) is or will be a witness or testify in any proceeding concerning the violation of any licensing or other laws, including a proceeding to

revoke or to refuse to renew a license under Section 9 of the Child Care Act; or,

- (4) refuses to perform work in violation of a licensing or other law or regulation after notifying the employer of the violation.

(c) Role of Department of Labor

- (1) A claim by an employee alleging an employer's violation of subsection (b) of Section 7.2 shall be presented to the employer within 30 days after the date of the action complained of and shall be filed with the Department of Labor within 60 days after the date of the action complained of.
- (2) Upon receipt of the complaint, the Department of Labor shall conduct whatever investigation it deems appropriate, and may hold a hearing. After investigation or hearing, the Department of Labor shall determine whether the employer has violated subsection (b) of Section 7.2 and it shall notify the employer and the employee of its determination.
- (3) If the Department of Labor determines that the employer has violated subsection (b) of Section 7.2, and the employer refuses to take remedial action to comply with the determination, the Department of Labor shall so notify the Attorney General, who shall bring an action against the employer in the circuit court seeking enforcement of its determination. The court may order any appropriate relief, including rehiring and reinstatement of the employee to his or her former position with back pay and other benefits.

(d) Exclusive Remedy

Except for any grievance procedure, arbitration or hearing which is available to the employee pursuant to a collective bargaining agreement, this Section shall be the exclusive remedy for an employee complaining of any action described in subsection (b).

(e) Penalty

Any employer who willfully refuses to rehire, promote or otherwise restore an employee or former employee who has been determined eligible for rehiring or promotion as a result of any grievance procedure, arbitration or hearing authorized by law shall be guilty of a Class A misdemeanor.

Sec. 7.3. Children placed by private child welfare agency.

- (a) Before placing a child who is a ward of the Department in a foster family home, a private child welfare agency must ascertain (i) whether any other children who are wards of the Department have been placed in that home and (ii) whether every such child who has been placed in that home continues to reside in that home, unless the child has been transferred to another placement or is no longer a ward of the Department. The agency must keep a record of every other child welfare agency that has placed such a child in that foster family home; the record must include the name and telephone number of a contact person at each such agency.
- (b) At least once every 30 days, a private child welfare agency that places wards of the Department in foster family homes must make a site visit to every such home where it has placed a ward. The purpose of the site visit is to verify that the child continues to reside in that home and to verify the child's safety and well-being. The agency must document the verification in its records. If a private child welfare agency fails to comply with the requirements of this subsection, the Department must suspend all payments to the agency until the agency complies.
- (c) The Department must periodically (but no less often than once every 6 months) review the child placement records of each private child welfare agency that places wards of the Department.
- (d) If a child placed in a foster family home is missing, the foster parent must promptly report that fact to the Department or to the child welfare agency that placed the child in the home. If the foster parent fails to make such a report, the Department shall put the home on hold for the placement of other children and initiate corrective action that may include revocation of the foster parent's license to operate the foster family home. A foster parent who knowingly and willfully fails to report a missing foster child under this subsection is guilty of a Class A misdemeanor.
- (e) If a private child welfare agency determines that a ward of the Department whom it has placed in a foster family home no longer resides in that home, the agency must promptly report that fact to the Department. If the agency fails to make such a report, the Department shall put the agency on hold for the placement of other children and initiate corrective action that may include revocation of the agency's license.
- (f) When a child is missing from a foster home, the Department or private agency in charge of case management shall report regularly to the foster parent concerning efforts to locate the missing child.

- (g) The Department must strive to account for the status and whereabouts of every one of its wards who it determines is not residing in the authorized placement in which he or she was placed.

Section 8: Conditions Which May Result In Revocation or Refusal to Renew

The Department may *revoke* or *refuse to renew* the license of any child care facility - - or *refuse to issue full license* to the holder of a permit - - should the licensee or holder of a permit:

- (1) fail to maintain standards prescribed and published by the Department;
- (2) violate any of the provisions of the license issued;
- (3) furnish or make any misleading or any false statement or report to the Department;
- (4) refuse to submit to the Department any reports or refuse to make available to the Department any records required by the Department in making investigation of the facility for licensing purposes;
- (5) fail or refuse to submit to an investigation by the Department;
- (6) fail or refuse to admit authorized representatives of the Department at any reasonable time for the purpose of investigation;
- (7) fail to provide, maintain, equip and keep in safe and sanitary condition premises established or used for child care as required under standards prescribed by the Department, or as otherwise required by any law, regulation or ordinance applicable to the location of such facility;
- (8) refuse to display its license or permit;
- (9) be the subject of an indicated report under Section 3 of the "Abused and Neglected Child Reporting Act" or fail to discharge or sever affiliation with the child care facility of an employee or volunteer at the facility with direct contact with children who is the subject of an indicated report under Section 3 of the Child Care Act;
- (10) fail to comply with the provisions of Section 7.1 [requires day care homes, etc. to maintain a list of persons designated by each child's guardian to whom the child may be released];
- (11) fail to exercise reasonable care in the hiring, training and supervision of facility personnel;

- (12) fail to report suspected abuse or neglect of children within the facility, as required by the Abused and Neglected Child Reporting Act;
- (13) fail to comply with Section 5.1 or 5.2 of the Child Care Act (re: transporting of children); or
- (14) be identified in an investigation by the Department as an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act, or be a person whom the Department knows has abused alcohol or drugs and has not successfully participated in treatment, self-help groups or other suitable activities, and the Department determines that because of such abuse the licensee holder of the permit, or any other person directly responsible for the care and welfare of the children served, does not comply with standards relating to character, suitability or other qualifications established under Section 7 of the Child Care Act .

#### Section 8.1: Conditions Which Require Revocation/Refusal to Renew

The Department shall *revoke* or *refuse to renew* the license of any child care facility or *refuse to issue a full license* to the holder of a permit should the licensee or holder of a permit:

- (1) fail to correct any condition which jeopardizes the health, safety, morals, or welfare of children served by the facility;
- (2) fail to correct any condition or occurrence relating to the operation or maintenance of the facility comprising a violation under Section 8 of the Child Care Act; or
- (3) fail to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises, and provisions for personal care, medical services, clothing, education and other essentials in the proper care, rearing and training of children.

#### Section 8.2: Conditional License

The Department may issue a *conditional license* to any child care facility which currently is licensed under the Child Care Act.

The conditional license shall be a nonrenewable license for a period of 6 months and the Department shall revoke any other license held by the conditionally licensed facility.

Conditional licenses shall only be granted to facilities where no threat to the health, safety, morals or welfare of the children served exists. A complete listing

of deficiencies and a corrective plan approved by the Department shall be in existence at the time a conditional license is issued.

Failure by the facility to correct the deficiencies or meet all licensing standards at the end of the conditional license period shall result in immediate revocation of or refusal to renew the facility's license as provided in Section 8.1 of the Child Care Act.

### Section 9: Notification Prior to Revocation/Refusal to Renew

Prior to revocation or refusal to renew a license, the Department shall notify the licensee by registered mail with postage prepaid, at the address specified on the license - - or at the address of the ranking or presiding officer of a board of directors, or any equivalent body conducting a child care facility:

- of the contemplated action; and
- that the licensee may, within 10 days of such notification, dating from the postmark of the registered mail, request in writing a public hearing before the Department, and, at the same time, may request a written statement of charges from the Department.

#### (a) Statement of Charges

Upon written request by the licensee, the Department:

- shall furnish such written statement of charges; and,
- at the same time, shall set the date and place for the hearing.

The charges and notice of the hearing shall be delivered by registered mail with postage prepaid.

The hearing must be held within 30 days, dating from the date of the postmark of the registered mail.

Notification must be made at least 15 days in advance of the date set for the hearing.

#### (b) No Timely Request for Hearing and Determination to Revoke After Hearing

The license shall be revoked or renewal denied:

- if no request for a hearing is made within 10 days after notification;
- or
- if the Department determines, upon holding a hearing that the license should be revoked or renewal denied.

(c) Oaths and Subpoenas

Upon the hearing of proceedings in which the license is revoked, renewal of license is refused, or full license is denied, the Director of the Department - - or any officer or employee duly authorized by him in writing - - may administer oaths.

The Department may procure, by its subpoena, the attendance of witnesses and the production of relevant books and papers.

(d) Hearings

At the time and place designated, the Director of the Department - - or the officer or employee authorized by him in writing - - shall hear the charges.

Both the Department and the licensee shall be allowed to present in person or by counsel such statements, testimony and evidence as may be pertinent to the charges or to the defense thereto.

The hearing officer may continue such hearing from time to time, but not to exceed a single period of 30 days, unless special extenuating circumstances make further continuance feasible.

Section 9.1: Procedures for Licensing Complaint Investigations

Before the Department initiates a full-scale investigation of any complaint received regarding a child care facility the Department may, when appropriate, provide procedures for the substantiation of the complaint.

Section 9.2: Toll Free Number — Day Care Information

The Department shall establish and maintain a statewide toll-free number that all persons may use to inquire about the past history and record of a day care facility operating in this State. The past history and record shall include, but shall not be limited to, Department substantiated complaints against a day care facility and Department staff findings of license violations by a day care facility. Information disclosed in accordance with Section 9.2 shall be subject to the confidentiality requirements provided by the Child Care Act.

Section 10: Court Involvement

Any circuit court, upon application either of the person requesting a hearing or of the Department, may require the attendance of witnesses and the production of relevant books and papers before the Department in any hearing relating to the refusal or revocation of licenses.

The refusal or neglect to obey the order of the court compelling the attendance or production is punishable as in other cases of contempt.

#### Section 11: Allegations re: Unlicensed Child Care Facilities

Whenever the Department is advised, or has reason to believe, that any person, group of persons or corporation is operating a child care facility without a license or permit, it shall make an investigation to ascertain the facts.

If the Department is denied access, it shall request intervention of local, county, or State law enforcement agencies to seek an appropriate court order or warrant to examine the premises.

A person or entity preventing the Department from carrying out its duties under this Section shall be guilty of a violation of the Child Care Act and shall be subject to such penalties related thereto.

If the Department finds that the child care facility is being, or has operated without a license or permit, it shall report the results of its investigation to the Attorney General, and to the appropriate State's Attorney for prosecution.

Operating a child care facility without a license constitutes a Class A misdemeanor, followed by a business offense, if the operator continues to operate the facility and no effort is made to obtain a license. The business offense fine shall not exceed \$10,000 and each day of violation is a separate offense.

#### Section 11.1: Requests to the Attorney General and State's Attorney

Upon request of the Director, the Attorney General or the State's Attorney of the county in which the violation occurred shall initiate injunction proceedings whenever it appears that any person, group of persons, or corporation is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the Child Care Act or any rule or regulation prescribed under authority thereof.

Upon a proper showing, any circuit court may enter a permanent or preliminary injunction or temporary restraining order without bond to enforce the Child Care Act or any rule or regulation prescribed thereunder in addition to the penalties and other remedies provided in the Child Care Act

#### Section 11.2: Orders of Closure

Whenever the Department expressly finds that the continued operation of a child care facility - - including such facilities defined in Section 2.10 [part day child care

facility] and unlicensed facilities - -jeopardizes the health safety morals, or welfare of children served by the facility, the Department

- shall issue an order of closure directing that the operation of the facility terminate immediately; and
- if applicable, shall initiate revocation proceedings under Section 9 within 10 working days.

A facility closed under this Section may not operate during the pendency of any proceeding for the judicial review of the decision of the Department to issue an order of closure or to revoke or refuse to renew the license, except under court order.

#### Section 12: Advertising

A child care facility licensed or operating under a permit issued by the Department may publish advertisements of the services for which it is specifically licensed or issued a permit under the Child Care Act.

No person, unless licensed or holding a permit as a child care facility, may cause to be published any advertisement soliciting a child or children for care or placement or offering a child or children for care or placement.

#### Section 13: Placements and Child's Religious Faith

Whenever a child is placed in or with a child care institution or in or with a child welfare agency, the placement shall, whenever practicable, be to, with or in the custody of a child care facility as is under the control of persons of the same religious faith as that of the child.

Whenever a child is placed in a group care home or in a foster family home, the placement must, if practicable, be made with a person or persons of the same religious faith as that of the child.

#### Section 15: Child Records

Every child care facility:

- must keep and maintain such records as the Department may prescribe pertaining to the admission, progress, health and discharge of children under the care of the facility; and
- shall report relative thereto to the Department whenever called for, upon forms prescribed by the Department.

All records regarding children and all facts learned about children and their relatives must be kept confidential both by the child care facility and by the Department.

Nothing contained in the Child Care Act prevents the sharing or disclosure of information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive Action Program when that information is used to assist in the early identification and treatment of habitual juvenile offenders.

Section 16: Facilities Receiving Children from Foreign States or Countries

(a) Reporting to the Department

Any child care facility receiving a child for care or supervision from a foreign state or country shall report that child to the Department in the same manner as is required for reporting other children.

(b) Required Prior Notification to and Approval from the Department

A person, agency or organization - - other than a licensed child care institution or child welfare agency - - may not receive a foreign child without prior notice to and approval of the Department.

(c) Guaranty that Child Will Not Become a Public Charge

In an instances the Department may require a guaranty that a child accepted for care or supervision from a foreign state or country will not become a public charge upon the State of Illinois.

(d) How Reports Must Be Made to the Department

Reports to the Department must be made, as required.

(e) Agreements with States Adjacent to Illinois

The Department may enter into agreements with public or voluntary social agencies headquartered in states adjacent to the State of Illinois, regarding the placement of children in licensed foster family homes within the boundaries of Illinois - - if the agencies meet the standards and criteria required for license as a child welfare agency in Illinois.

The agreements may allow foreign agencies to place and supervise children for whom they have responsibility within the State of Illinois, without regard to paragraph (a) of this Section.

These agreements must:

- include a requirement that the agencies cooperate fully with the Department in its inquiry or investigation into the activities and standards of those agencies; and
- provide that the Department may, at any time upon 15 days written notice to an agency by registered mail, void the agreement and require the observance of paragraph (a) of this Section.

#### Section 17: Administrative Review Law

The Administrative Review Law and the rules adopted pursuant thereto, applies to and governs all proceedings for the judicial review of final administrative decisions of the Department.

The term "*administrative decision*" is defined as in Section 3-101 of the Code of Civil Procedure.

#### Section 18: Penalties

Any person group of persons, association or corporation [who carries out any of the activities/actions listed below] is guilty of a Class A misdemeanor and - - in case of an association or corporation - -imprisonment may be imposed upon its officers who knowingly participated in the violation:

- (1) conducts, operates or acts as a child care facility without a license or permit to do so in violation of Section 3 of the Child Care Act;
- (2) makes materially false statements in order to obtain a license or permit;
- (3) fails to keep the records and make the reports provided under the Child Care Act;
- (4) advertises any service not authorized by license or permit held;
- (5) publishes any advertisement in violation of the Child Care Act;
- (6) receives within this State any child in violation of Section 16 [receiving a child from a foreign country or state] of the Child Care Act; or
- (7) violates any other provision of the Child Care Act or any reasonable rule or regulation adopted and published by the Department for the enforcement of the provisions of the Child Care Act.

## Facilities That Continue to Operate After Revocation/Refusal to Renew

Any child care facility that continues to operate after its license is revoked under Section 8 of the Child Care Act - - or after its license expires and the Department refused to renew the license as provided in Section 8 of the Child Care Act - - is guilty of a business offense and shall be fined an amount in excess of \$500, but not exceeding \$10,000, and each day of violation is a separate offense.

In a prosecution under the Child Care Act, a defendant who relies upon the relationship of any child to himself has the burden of proof as to that relationship.

### Section 19: Valid Licenses

Any license issued under the "Child Care Act", approved July 10, 1957, as amended, remains valid:

- until its expiration date; or
- until revoked by the Department under the Child Care Act

### Section 20: Severability

Should any Section, subdivision, clause, phrase or provision of the Child Care Act be held unconstitutional or invalid for any reason whatsoever, that holding shall not affect the validity of the remaining portions of the Child Care Act.

## **UNIT TWO: CHILD CARE ACT STUDY GUIDE QUESTIONS**

Hereunder, is a list of questions that you should be able to answer in preparation for the Child Care Act Examination. The questions are organized by content area, and the location of the answer in the Child Care Act is identified in Appendix A at the end of the study guide.

### **DEFINITIONS**

1. According to the Child Care Act, "related" means any relationships by blood, marriage, or adoption. List the 15 relationships that are acknowledged by the Child Care Act.
2. List 5 types of facilities that are not considered "Child Care Institutions."
3. List the 5 types of foster homes listed in the Child Care Act.
4. An application to operate a foster family home shall include a minimum of 4 requirements. List the 4 requirements.

### **ESTABLISHMENT OF STANDARDS**

1. Who has the legal responsibility to establish policies and coordinate activities relating to child care licensing, licensing of day care homes and day care centers?
2. In establishing minimum standards that apply to the various types of facilities for child care as defined in the Child Care Act of 1969, does the Department have the discretion to create regulations pertaining to any and all issues that are determined by the Department to be pertinent to child care?
3. When is a handgun permitted on the premises of a day care home?
4. How do licensing standards take effect once they have been established?
5. Mr. and Mrs. B. have applied to be foster parents but don't understand some of the standards. What type of assistance is available to Mr. and Mrs. B. in understanding the standards?
6. What legal protection does the Child Care Act of 1969 provide to licensed facility employees who make a good faith complaint of the employer's violation of a licensing standard?
7. How are licensing standards and other information required by the Department disseminated to licensees and applicants for a license?

8. Under what circumstances is the Department required to seek the advice and recommendation of the Department of Human Services and/or the Department of Public Health regarding specific services provided by a licensed child care facility?
9. What procedures must a day care center, a day care home, or a part day child care facility follow in order to assure children are released to an authorized person if the parent or guardian who enrolled the child is unable to personally remove the child from the facility?
10. How does the Child Care Act address smoking in day care facilities?
11. How does the Child Care Act require the Department to address care to children with disabilities?
12. What requirements does the Child Care Act impose on the operator of a motor vehicle who is acting on behalf of a licensed child care facility in which children are transported? Are there any exceptions?
13. How is the Department required to assure child care facilities do not use unsafe children's products?
14. Does the Child Care Act permit parents/guardians of children enrolled in all types of day care facilities to send a lunch for their child to consume instead of or in addition to the lunch provided by the facility?
15. In establishing minimum standards for licensing that apply to the various types of facilities for child care, is the Department required to consult with any person or groups outside the Department? If so, who?
16. Do the minimum licensing standards for foster home apply only to those facilities licensed directly by the Department?
17. What are the exceptions for any standards requiring physical examinations, immunizations, or medical treatment for children in child care facilities?
18. How does the Department assure the guardian(s) of each child cared for in a child care facility are informed of the licensing standards for the type of facility utilized?

## **ENFORCEMENT**

1. If a child care facility's license is revoked or if the department refuses to renew the facility's license, under what circumstances can the entity become licensed again?
2. What must occur in order for the department to issue a new foster family home license when a member of the household has been convicted of armed robbery?

3. The Child Care Act of 1969 allows for the revocation or refusal to renew the license of any child care facility when certain conditions exist. The Child Care Act gives the department the discretion to revoke or refuse to renew a license, but also dictates when the department must revoke or refuse to renew a license. When *may* the department revoke or refuse to renew a license? When *must* the department revoke or refuse to renew a license?
4. What are the possible penalties for operating a child care facility without a license when the facility is required to be licensed?
5. What steps must the Department follow in order to revoke or refuse to renew a child care license?
6. What is a conditional license?
7. Under what circumstances shall the Department issue an administrative order of closure?
8. When is a child care facility allowed to advertise and solicit patrons for its services?
9. What are the possible penalties for a child care facility that continues to operate after its license is revoked or after its license expires and the Department refused to renew the license?
10. What statute governs all proceedings for the judicial review of final administrative decisions of the Department?

### **IMPLEMENTATION OF STANDARDS**

1. Under what conditions can licensing workers make unannounced visits to licensed child care facilities?
2. What activities are required to be part of the license renewal process?

### **RIGHTS**

1. The Department shall notify the public when a childcare institution, maternity center, or group home undergoes a change in any three areas. List the three areas.
2. List the 7 conditions under the Child Care Act in which a person, group of persons, association or corporation is guilty of a Class A misdemeanor.
3. According to the Child Care Act, prior to the Department revoking or refusing to renew a license, it is required to do the following.

4. List 3 conditions under which the Department shall revoke or refuse to renew the license of any child care facility or refuse to issue a full license to the holder of a permit.
5. No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who commits any of 4 things. What are they?

### **BACKGROUND CHECKS**

1. List 3 conditions that are true concerning background checks.
2. Bars to licensure/enforcement. No applicant may receive a license from the Department and no person may be employed by a child care facility licensed by the Department who has been convicted of committing or attempting to commit certain offenses. List 10 such offenses that this would include.
3. Foster family homes have additional bars to licensure. List 10 such offenses that this would include.

### **LICENSING REQUIREMENTS/PROVIDER RESPONSIBILITIES**

1. Who must apply for a license to operate one of the types of facilities defined of Sections 2.05 through 2.19 and in Section 2.22 of the Child Care Act?
2. How is application made for a license to operate a child care facility?
3. What constitutes a complete application for a foster family home?
4. What responsibilities does the applicant for a child care license have regarding background checks?
5. Who is responsible for successfully completing a basic training course in providing care to children with disabilities?
6. What requirements must an employee of a day care center, group home, or child care institution meet in order to be approved to transport children in a motor vehicle?
7. Do licensed school bus drivers also have to meet separate requirements to transport school children to/from a day care facility?
8. Are there any exceptions to the requirements for employees of day care centers, group homes, or child care institutions who transport children?
9. What responsibilities does the operator of a child care facility have in assuring that no unsafe children's product is on the premises?

10. Can the operator or any employee of a day care home, group day care home, or day care home smoke tobacco in the facility at any time?
11. How shall a facility assure children are released only to a person authorized by the parent or guardian?
12. Under what circumstances can a child care facility advertise and solicit children for care or placement in the facility?
13. When can a child care facility share or disclose information or records that would otherwise be confidential regarding children in care in the facility?
14. If, during a prosecution under the Child Care Act, a person relies upon the relationship of any child to himself, who has the burden of proof as to that relationship?

### **DCFS RESPONSIBILITIES**

1. Who shall the Department seek advice and assistance from when establishing standards?
2. The Child Care Act prescribes and publishes standards that pertain to what areas?
3. The Department shall have staff provide consultation to facilities on which areas?
4. What information will be provided on the toll-free number established by the Department?

### **PROVIDER REQUIREMENTS**

1. Every child care facility must keep and maintain records pertaining to 5 different areas. Identify these areas.
2. What must be included on an application to operate a foster family home?
3. Describe the types of lists that the facility shall retain on file provided by the legal guardian designating persons to whom it may release custody of a child.
4. Who is responsible for distribution of the standards and the summaries?

## UNIT THREE: SAMPLE SCENARIOS AND MULTIPLE CHOICE QUESTIONS

### **The Smith Family**

Mr. and Mrs. Smith are both licensees on the license for their day care home. Mr. Smith is semi-retired. He works part time out of the home but also provides care with Mrs. Smith on an intermittent basis. A report is made to the abuse/neglect hotline stating that the previous day, Mrs. Smith fell asleep while providing care and a 24 month old child slipped out of the house and was found on the street. Mr. Smith was at work. The police responded and made the hotline call. Mrs. Smith said that she had started on a new medication for anxiety and it made her sleepy. She sat in a kitchen chair when the children went down for a nap and fell asleep herself. The Smiths were notified of the DCFS report regarding a lack of supervision. A formal investigation has commenced.

According to the Child Care Act:

Under what circumstances would the Smiths be allowed to continue to provide day care services? (Section 4.3)

### **Ms. Howard**

Ms. Howard is a young, single mother. She makes arrangements with a relative to come and stay with her children early one morning so that she can go to a doctor's appt. Ms. Howard has two children, ages 2 and 5 years. She leaves the house to catch the bus, thinking her relative is minutes behind her. The relative oversleeps and a neighbor calls the police. Ms. H. is indicated for a lack of supervision report with DCFS and is criminally charged with endangering the life of a child. When she goes to court, her court appointed attorney encourages her to plead guilty and tells her she will only have a minimal fine. She is convicted of child endangerment.

She has no further legal troubles and in 5 years, the DCFS report is expunged. She appears to be a stable, law-abiding citizen and caring parent who made a poor choice when she was younger. Ms. H. becomes employed as a cook in a day care center where she will have no direct responsibility for children. As a condition of her employment, she authorizes a criminal background investigation.

According to the Child Care Act:

What impact will the background investigation have on her current employment? (Section 4.1)

If she had no criminal conviction, would she be allowed to waive authorization of a background check? (Section 4.3)

### **Shelly Davis**

A 21 year old woman, Shelly Davis, a part-time college student, goes to a day care center seeking employment. As a condition of her employment, she must authorize a criminal background investigation. The woman has been convicted of Driving Under the Influence (DUI). She has made her employer aware of her conviction.

According to the Child Care Act Section 4.1:

What is the purpose of the criminal background investigation?

Once a potential employee consents to a background investigation, what agencies are authorized to dispense criminal history information?

Once criminal history information has been obtained, who has the right to know and discuss this information?

The Child Care Act defines parties that have access to confidential information. What are the consequences for sharing information with others outside those parameters?

### **Daisy Jones**

An anonymous complaint is made to the DCFS Licensing Unit stating that there is a woman named Daisy Jones providing day care for seven children without a license. The reporter gives the Licensing Unit directions to a rural address. The Day Care Licensing Representative goes to the home and is allowed inside. He finds seven children in care with Mrs. Jones. Mrs. Jones has one child of her own and the other children are from two different families. The Licensing Representative has ascertained that Mrs. Jones is providing day care to the extent that she needs to apply for a day care license. He tells Mrs. Jones that she must stop providing day care or decrease to a license exempt number of children until she becomes licensed.

According to the Child Care Act:

The results of this investigation shall be reported to which agencies? (Sec. 11)

If Mrs. Jones were uncooperative and refused to allow the Licensing Representative access to the premises, what is his recourse? (Sec. 11)

The Licensing Representative goes to the home for a follow-up complaint visit within 30 days to make sure that Mrs. Jones is no longer providing care. When he arrives, he finds that Mrs. Jones is still providing care to the same families and has not applied for a day care home license. What are the consequences to Mrs. Jones if she continues to operate her facility? (Sec. 11)

In the presence of the Licensing Representative, Mrs. Jones states that she has provided care to children for years and no harm has ever come to a child in her care. She tells the Representative that no one is going to tell her what she can do, she will not apply for a day care license and she has no intention of closing her day care business.

In response to Mrs. Jones continued operation of an unlicensed facility, what shall the Department do? (Sec. 11.2)

## SAMPLE MULTIPLE CHOICE QUESTIONS

1. A "day care home" and a "group day care home" differ, a "group day care home" being defined in the Child Care Act as:
  - (a) A family home which receives more than 3 up to a maximum of 12 children for less than 24 hours per day.
  - (b) A facility, other than the family home, which receives more than 3 up to a maximum of 16 for less than 24 hours a day.
  - (c) A family home which receives more than 3 up to a maximum of 16 children for less than 24 hours per day.
  - (d) A childcare facility, which provides care for no more than 10 children and must be under the supervision of a licensed child welfare agency.

*Sec. 2.18 & Sec. 2.20*

2. According to the Child Care Act, a "day care center" and a "day care agency" differ in that:
  - (a) A "day care center" regularly provides day care for children less than 24 hours per day.
  - (b) "child care agency" regularly provides care for children more than 24 hours per day.
  - (c) There is no difference.
  - (d) A "day care center" must be a part of a public or private school system where a "child care agency" does not.

*Sec. 2.09 & Sec. 2.11*

3. According to the Child Care Act, whenever a child is placed in a group care home or in a foster family home, the placement must, if practicable, be made:
  - (a) In the community in which the child originally resided.
  - (b) In the same school system in which the child originally resided.
  - (c) By the Department of Children and Family Services.
  - (d) With a person or persons of the same religious faith as that of the child.

*Sec. 13*

4. According to the Child Care Act, the Department may revoke or refuse to renew the license of any child care facility or refuse to issue full license to the holder of a permit should the licensee or holder of a permit:
  - (a) furnish or make any misleading statements or any false statement or report to the Department.
  - (b) fail or refuse to admit authorized representatives of the Department at any reasonable time for the purpose of investigation.
  - (c) refuse to display its license or permit.
  - (d) all of the above.

*Sec. 8*

**Answers:**

Question 1: b; Question 2: a; Question 3: d; Question 4: d

## APPENDIX A

### LOCATION OF ANSWERS TO CHILD CARE ACT STUDY GUIDE QUESTIONS

#### DEFINITIONS

1. *Sec. 2.04*
2. *Sec. 2.06, p. 1*
3. *Sec. 2.17, a-f*
4. *Sec. 4. b.*

#### ESTABLISHMENT OF STANDARDS

1. *Sec. 3. (c)*
2. *Sec. 7 (a)*
3. *Sec. 7 (a) (13)*
4. *Sec. 7 (a)*
5. *Sec. 7 (d)*
6. *Sec. 7.2 (b) (1) - (4)*
7. *Sec. 7 (e)*
8. *Sec. 7 (b)*
9. *Sec. 7.1*
10. *Sec. 5.5*
11. *Sec. 4.5 (a) & (b)*
12. *Sec. 5.1 (a) & (b)*
13. *Sec. 5.2 (a) & (b)*
14. *Sec. 5.3*
15. *Sec. 7 (a)*
16. *Sec. 7 (a)*

17. *Sec. 7 (h)*

18. *Sec. 7 (f)*

## **ENFORCEMENT**

1. *Sec. 6 (c)*

2. *Sec. 4.1 (1)-(6)*

3. *Sec. 8; Sec. 8.1*

4. *Sec. 11*

5. *Sec. 9 (a) - (d)*

6. *Sec. 8.2*

7. *Sec. 11.2*

8. *Sec. 12*

9. *Sec. 18*

10. *Sec. 17*

## **IMPLEMENTATION OF STANDARDS**

1. *Section 5 G*

2. *Section 6 (a) & (b)*

## **RIGHTS**

1. *Sec. 4, c*

2. *Sec. 18*

3. *Sec. 9*

4. *Sec. 8.1*

5. *Sec. 7.2, b*

## **BACKGROUND CHECKS**

1. *Sec. 4.1*

2. *Sec. 4.2 (b) and (b) (1)*

3. *Sec. 4.2 (c)*

## **LICENSING REQUIREMENTS/PROVIDER RESPONSIBILITIES**

1. *Sec. 4 (a)*
2. *Sec. 4 (b)*
3. *Sec. 4 (b)*
4. *Sec. 4.1 and Sec. 4.3*
5. *Sec. 4.5*
6. *Sec. 5.1 (a )1. 6.*
7. *Sec. 5.1 (c)*
8. *Sec. 5.1 (a) 6.*
9. *Sec. 5.2 (a) & (b)*
10. *Sec. 5.5 (b); Sec. 5.5 (c)*
11. *Sec. 7.1 (a) (1) through (b)*
12. *Sec. 12*
13. *Sec. 15*
14. *Sec. 18 (7) paragraph 3*

## **DCFS RESPONSIBILITIES**

1. *3.1 AND 7(a)*
2. *4.5b, 7a-h*
3. *7(d)*
4. *9.2*

## **PROVIDER REQUIREMENTS**

1. *15*
2. *4(b)*
3. *7.1(a)1(A) (B)*
4. *7(e-f)*