

## CHAPTER 245H

### CERTIFIED LICENSE-EXEMPT CHILD CARE CENTERS

245H.01	DEFINITIONS.	245H.11	REPORTING.
245H.02	WHO MUST BE CERTIFIED.	245H.12	FEES.
245H.03	APPLICATION PROCEDURES.	245H.13	HEALTH AND SAFETY REQUIREMENTS.
245H.04	COMMISSIONER'S RIGHT OF ACCESS.	245H.14	TRAINING REQUIREMENTS.
245H.05	MONITORING AND INSPECTIONS.	245H.15	EMERGENCY PREPAREDNESS.
245H.06	CORRECTION ORDER.	245H.16	PERSONNEL RECORD.
245H.07	DECERTIFICATION.	245H.17	CERTIFICATION STANDARDS.
245H.08	STAFFING REQUIREMENTS.	245H.18	PARENTAL ACCESS.
245H.10	BACKGROUND STUDIES.		

#### 245H.01 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in this chapter have the meanings given in this section.

Subd. 2. **Applicant.** "Applicant" means an individual or organization that is subject to certification under this chapter and that applied for but is not yet granted certification under this chapter.

Subd. 3. **Center operator or program operator.** "Center operator" or "program operator" means the person exercising supervision or control over the center's or program's operations, planning, and functioning. There may be more than one designated center operator or program operator.

Subd. 4. **Certification holder.** "Certification holder" means the individual or organization that is legally responsible for the operation of the center, and granted certification by the commissioner under this chapter.

Subd. 5. **Certified license-exempt child care center.** "Certified license-exempt child care center" means the commissioner's written authorization for a child care center excluded from licensure under section 245A.03, subdivision 2, paragraph (a), clause (5), (11) to (13), (15), (18), or (26), to register to receive child care assistance payments under chapter 119B.

Subd. 6. **Disinfecting.** "Disinfecting" means the use of a product capable of destroying or inactivating harmful germs, except bacterial spores, consistent with label directions on environmental surfaces including bathroom toilets and floors, diaper-changing surfaces, and surfaces exposed to blood or other bodily fluids.

**History:** *1Sp2017 c 6 art 16 s 43,68*

#### 245H.02 WHO MUST BE CERTIFIED.

A program that is exempt from licensure under section 245A.03, subdivision 2, paragraph (a), clause (5), (11) to (13), (15), (18), or (26), and is authorized to receive child care assistance payments under chapter 119B, must be a certified license-exempt child care center according to this section.

**History:** *1Sp2017 c 6 art 16 s 44,68*

#### 245H.03 APPLICATION PROCEDURES.

Subdivision 1. **Schedule.** The certification of license-exempt child care centers shall be implemented by September 30, 2017. Certification applications shall be received and processed on a phased-in schedule as determined by the commissioner.

Subd. 2. **Application submission.** The commissioner shall provide application instructions and information about the rules and requirements of other state agencies that affect the applicant. The certification application must be submitted in a manner prescribed by the commissioner. The commissioner shall act on the application within 90 working days of receiving a completed application.

Subd. 3. **Incomplete applications.** When the commissioner receives an application for initial certification that is incomplete because the applicant failed to submit required documents or is deficient because the documents submitted do not meet certification requirements, the commissioner shall provide the applicant written notice that the application is incomplete or deficient. In the notice, the commissioner shall identify documents that are missing or deficient and give the applicant 45 days to resubmit a second application that is complete. An applicant's failure to submit a complete application after receiving notice from the commissioner is basis for certification denial.

**History:** *1Sp2017 c 6 art 16 s 45,68*

#### **245H.04 COMMISSIONER'S RIGHT OF ACCESS.**

(a) When the commissioner is exercising the powers conferred by this chapter, whenever the center is in operation and the information is relevant to the commissioner's inspection or investigation, the commissioner must be given access to:

- (1) the physical facility and grounds where the program is provided;
- (2) documentation and records, including electronically maintained records;
- (3) children served by the center; and
- (4) staff and personnel records of current and former staff.

(b) The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is investigating alleged maltreatment or a violation of a law or rule, or conducting an inspection. When conducting an inspection, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or certification holder shall allow the commissioner, at the commissioner's expense, to photocopy, photograph, and make audio and video recordings during an inspection.

**History:** *1Sp2017 c 6 art 16 s 46,68*

#### **245H.05 MONITORING AND INSPECTIONS.**

(a) The commissioner must conduct an on-site inspection of a certified license-exempt child care center at least annually to determine compliance with the health, safety, and fire standards specific to a certified license-exempt child care center.

(b) No later than November 19, 2017, the commissioner shall make publicly available on the department's website the results of inspection reports for all certified centers including the number of deaths, serious injuries, and instances of substantiated child maltreatment that occurred in certified centers each year.

**History:** *1Sp2017 c 6 art 16 s 47,68*

#### **245H.06 CORRECTION ORDER.**

Subdivision 1. **Correction order requirements.** If the applicant or certification holder failed to comply with a law or rule, the commissioner may issue a correction order. The correction order must state:

- (1) the condition that constitutes a violation of the law or rule;
- (2) the specific law or rule violated; and
- (3) the time allowed to correct each violation.

Subd. 2. **Reconsideration request.** (a) If the applicant or certification holder believes that the commissioner's correction order is erroneous, the applicant or certification holder may ask the commissioner to reconsider the part of the correction order that is allegedly erroneous. A request for reconsideration must be made in writing, postmarked, and sent to the commissioner within 20 calendar days after the applicant or certification holder received the correction order, and must:

- (1) specify the part of the correction order that is allegedly erroneous;
- (2) explain why the specified part is erroneous; and
- (3) include documentation to support the allegation of error.

(b) A request for reconsideration does not stay any provision or requirement of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal.

Subd. 3. **Decertification following a correction order.** (a) If the commissioner finds that the applicant or certification holder failed to correct the violation specified in the correction order, the commissioner may decertify the license-exempt center pursuant to section 245H.07.

(b) Nothing in this section prohibits the commissioner from decertifying a center according to section 245H.07.

**History:** *1Sp2017 c 6 art 16 s 48,68*

#### **245H.07 DECERTIFICATION.**

(a) The commissioner may decertify a center if a certification holder:

- (1) failed to comply with an applicable law or rule; or
- (2) knowingly withheld relevant information from or gave false or misleading information to the commissioner in connection with an application for certification, in connection with the background study status of an individual, during an investigation, or regarding compliance with applicable laws or rules.

(b) When considering decertification, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule.

(c) When a center is decertified, the center is ineligible to receive a child care assistance payment.

**History:** *1Sp2017 c 6 art 16 s 49,68*

#### **245H.08 STAFFING REQUIREMENTS.**

Subdivision 1. **Staffing requirements.** During hours of operation, a certified center must have a director or designee on site who is responsible for overseeing implementation of written policies relating to the management and control of the daily activities of the program, ensuring the health and safety of program participants, and supervising staff and volunteers.

Subd. 2. **Director qualifications.** The director must be 18 years of age or older and have completed at least 16 hours of training in any of the following topic areas: child development and learning; developmentally appropriate learning experiences; relationships with families; assessment, evaluation, and individualization; historical and contemporary development of early childhood education; professionalism; and health, safety, and nutrition.

Subd. 3. **Staff qualifications.** A staff person must be 16 years of age or older before providing direct, unsupervised care to a child.

Subd. 4. **Maximum group size.** (a) For a child six weeks old through 16 months old, the maximum group size shall be no more than eight children.

(b) For a child 16 months old through 33 months old, the maximum group size shall be no more than 14 children.

(c) For a child 33 months old through prekindergarten, a maximum group size shall be no more than 20 children.

(d) For a child in kindergarten through 13 years old, a maximum group size shall be no more than 30 children.

(e) The maximum group size applies at all times except during group activity coordination time not exceeding 15 minutes, during a meal, outdoor activity, field trip, nap and rest, and special activity including a film, guest speaker, indoor large muscle activity, or holiday program.

Subd. 5. **Ratios.** (a) The minimally acceptable staff-to-child ratios are:

six weeks old through 16 months old	1:4
16 months old through 33 months old	1:7
33 months old through prekindergarten	1:10
kindergarten through 13 years old	1:15

(b) Kindergarten includes a child of sufficient age to have attended the first day of kindergarten or who is eligible to enter kindergarten within the next four months.

(c) For mixed groups, the ratio for the age group of the youngest child applies.

**History:** *1Sp2017 c 6 art 16 s 50,68*

## 245H.10 BACKGROUND STUDIES.

Subdivision 1. **Documentation.** (a) The applicant or certification holder must submit and maintain documentation of a completed background study for:

(1) each person applying for the certification;

(2) each person identified as a center operator or program operator as defined in section 245H.01, subdivision 3;

(3) each current or prospective staff person or contractor of the certified center who will have direct contact with a child served by the center;

(4) each volunteer who has direct contact with a child served by the center if the contact is not under the continuous, direct supervision by an individual listed in clause (1), (2), or (3); and

(5) each managerial staff person of the certification holder with oversight and supervision of the certified center.

(b) To be accepted for certification, a background study on every individual in paragraph (a), clause (1), must be completed under chapter 245C and result in a not disqualified determination under section 245C.14 or a disqualification that was set aside under section 245C.22.

Subd. 2. **Direct contact.** (a) The subject of the background study may not provide direct contact services to a child served by a certified center unless the subject is under continuous direct supervision pending completion of the background study.

(b) The certified center must document in the staff person's personnel file the date the program initiates a background study and the date the subject of the study first had direct contact with a child served by the center.

**History:** *1Sp2017 c 6 art 16 s 51,68*

#### **245H.11 REPORTING.**

(a) The certification holder must comply with the reporting requirements for abuse and neglect specified in section 626.556. A person mandated to report physical or sexual child abuse or neglect occurring within a certified center shall report the information to the commissioner.

(b) The certification holder must inform the commissioner within 24 hours of:

(1) the death of a child in the program; and

(2) any injury to a child in the program that required treatment by a physician.

**History:** *1Sp2017 c 6 art 16 s 52,68*

#### **245H.12 FEES.**

The commissioner shall consult with stakeholders to develop an administrative fee to implement this chapter. By February 15, 2019, the commissioner shall provide recommendations on the amount of an administrative fee to the legislative committees with jurisdiction over health and human services policy and finance.

**History:** *1Sp2017 c 6 art 16 s 53,68*

#### **245H.13 HEALTH AND SAFETY REQUIREMENTS.**

Subdivision 1. **Exclusion of sick children and infectious disease outbreak control.** (a) A certified center must supervise and isolate a child from other children in the program when a child becomes sick and immediately notify the sick child's parent or legal guardian.

(b) A certified center must post or give notice to the parent or legal guardian of an exposed child the same day the program is notified of a child's contagious reportable disease specified in Minnesota Rules, part 4605.7040, or scabies, impetigo, ringworm, or chicken pox.

Subd. 2. **Immunizations.** By a child's date of attendance, the certified center must maintain or have access to a record detailing the child's current immunizations or applicable exemption.

Subd. 3. **Administration of medication.** (a) A certified center that chooses to administer medicine must meet the requirements in this subdivision.

(b) The certified center must obtain written permission from the child's parent or legal guardian before administering prescription medicine, diapering product, sunscreen lotion, and insect repellent.

(c) The certified center must administer nonprescription medicine, diapering product, sunscreen lotion, and insect repellent according to the manufacturer's instructions unless provided written instructions by a licensed health professional to use a product differently.

(d) The certified center must obtain and follow written instructions from the prescribing health professional before administering prescription medicine. Medicine with the child's first and last name and current prescription information on the label is considered written instructions.

(e) The certified center must ensure all medicine is:

- (1) kept in the medicine's original container with a legible label stating the child's first and last name;
- (2) given only to the child whose name is on the label;
- (3) not given after an expiration date on the label; and
- (4) returned to the child's parent or legal guardian or destroyed, if unused.

(f) The certified center must document in the child's record the administration of medication, including the child's first and last name; the name of the medication or prescription number; the date, time, and dosage; and the name and signature of the person who administered the medicine. This documentation must be available to the child's parent or legal guardian.

(g) The certified center must store medicines, insect repellents, and diapering products according to directions on the original container.

Subd. 4. **Preventing and responding to allergies.** (a) Before admitting a child for care, the certified center must obtain documentation of any known allergies from the child's parent or legal guardian. The certified center must maintain current allergy information in each child's record. The allergy information must include:

- (1) a description of the allergy, specific triggers, avoidance techniques, and symptoms of an allergic reaction; and
- (2) procedures for responding to an allergic reaction, including medication, dosages, and a doctor's contact information.

(b) The certified center must inform staff of each child's current allergy information. At least annually and when a change is made to allergy-related information in a child's record, the certified center must inform staff of any change. Documentation that staff were informed of the child's current allergy information must be kept on site.

(c) A child's allergy information must be available at all times including on site, when on field trips, or during transportation. Food allergy information must be readily available to staff in the area where food is prepared and served to the child.

Subd. 5. **Building and physical premises; free of hazards.** (a) The certified center must document compliance with the State Fire Code by providing documentation of a fire marshal inspection completed

within the previous three years by a state fire marshal or a local fire code inspector trained by the state fire marshal.

(b) The certified center must designate a primary indoor and outdoor space used for child care on a facility site floor plan.

(c) The certified center must ensure the areas used by a child are clean and in good repair, with structurally sound and functional furniture and equipment that is appropriate to the age and size of a child who uses the area.

(d) The certified center must ensure hazardous items including but not limited to sharp objects, medicines, cleaning supplies, poisonous plants, and chemicals are out of reach of a child.

(e) The certified center must safely handle and dispose of bodily fluids and other potentially infectious fluids by using gloves, disinfecting surfaces that come in contact with potentially infectious bodily fluids, and disposing of bodily fluid in a securely sealed plastic bag.

Subd. 6. **Transporting children.** (a) If a certified center chooses to transport a child, the certified center must ensure that the driver of the vehicle holds a valid driver's license, appropriate to the vehicle driven.

(b) If a certified center chooses to transport a child, the center must comply with all seat belt and child passenger restraint system requirements under sections 169.685 and 169.686.

**History:** *1Sp2017 c 6 art 16 s 54,68*

## **245H.14 TRAINING REQUIREMENTS.**

Subdivision 1. **First aid and cardiopulmonary resuscitation.** At least one designated staff person who completed pediatric first aid training and pediatric cardiopulmonary resuscitation (CPR) training must be present at all times at the program, during field trips, and when transporting a child. The designated staff person must repeat pediatric first aid training and pediatric CPR training at least once every two years.

Subd. 2. **Sudden unexpected infant death.** A certified center that cares for an infant who is younger than one year of age must ensure that staff persons and volunteers receive training according to section 245A.1435 on reducing the risk of sudden unexpected infant death before assisting in the care of an infant.

Subd. 3. **Abusive head trauma.** A certified center that cares for a child through four years of age must ensure that staff persons and volunteers receive training on abusive head trauma from shaking infants and young children before assisting in the care of a child through four years of age.

Subd. 4. **Child development.** The certified center must ensure each staff person completes at least two hours of child development and learning training within 14 days of employment and annually thereafter. For purposes of this subdivision, "child development and learning training" means how a child develops physically, cognitively, emotionally, and socially and learns as part of the child's family, culture, and community.

Subd. 5. **Orientation.** The certified center must ensure each staff person is trained at orientation on health and safety requirements in sections 245H.11, 245H.13, 245H.14, and 245H.15. The certified center must provide staff with an orientation within 14 days of employment. Before the completion of orientation, a staff person must be supervised while providing direct care to a child.

Subd. 6. **In service.** (a) The certified center must ensure each staff person is trained at least annually on health and safety requirements in sections 245H.11, 245H.13, 245H.14, and 245H.15.

(b) Each staff person must annually complete at least six hours of training. Training required under paragraph (a) may be used toward the hourly training requirements of this subdivision.

Subd. 7. **Documentation.** A certified center must document the date of a completed training required by this section in the personnel record of each staff person.

**History:** *1Sp2017 c 6 art 16 s 55,68*

#### **245H.15 EMERGENCY PREPAREDNESS.**

Subdivision 1. **Written emergency plan.** (a) A certified center must have a written emergency plan for emergencies that require evacuation, sheltering, or other protection of children, such as fire, natural disaster, intruder, or other threatening situation that may pose a health or safety hazard to children. The plan must be written on a form developed by the commissioner and reviewed and updated at least once each calendar year. The annual review of the emergency plan must be documented.

(b) The plan must include:

- (1) procedures for an evacuation, relocation, shelter-in-place, or lockdown;
- (2) a designated relocation site and evacuation route;
- (3) procedures for notifying a child's parent or legal guardian of the relocation and reunification with families;
- (4) accommodations for a child with a disability or a chronic medical condition;
- (5) procedures for storing a child's medically necessary medicine that facilitates easy removal during an evacuation or relocation;
- (6) procedures for continuing operations in the period during and after a crisis; and
- (7) procedures for communicating with local emergency management officials, law enforcement officials, or other appropriate state or local authorities.

(c) The certification holder must have an emergency plan available for review upon request by the child's parent or legal guardian.

Subd. 2. **Staff person training.** The certification holder must train a staff person at orientation and at least once each calendar year on the emergency plan and document training in each personnel file. The certified center must conduct at least quarterly one evacuation drill and one shelter-in-place drill. The date and time of the drills must be documented.

**History:** *1Sp2017 c 6 art 16 s 56,68*

#### **245H.16 PERSONNEL RECORD.**

The certification holder must maintain a personnel record for each staff person at the program that must contain:

- (1) the staff person's name, home address, telephone number, and date of birth;
- (2) documentation that the staff person completed training required by section 245H.14;
- (3) documentation of the date the program initiated a background study for the staff person; and



(4) documentation of the date the staff person first had direct contact and access to a child while supervised, and the date the staff person first had direct contact and access to a child while unsupervised.

**History:** *1Sp2017 c 6 art 16 s 57,68*

#### **245H.17 CERTIFICATION STANDARDS.**

The commissioner shall regularly consult with stakeholders for input related to implementing the standards in this chapter.

**History:** *1Sp2017 c 6 art 16 s 58,68*

#### **245H.18 PARENTAL ACCESS.**

An enrolled child's parent or legal guardian must be allowed access to the parent's or legal guardian's child at any time while the child is in care.

**History:** *1Sp2017 c 6 art 16 s 59,68*