

Certified Child Care Centers: Implementation plan for 2023 legislative changes

July 2023
Updated September 2023

New laws passed by the 2023 Legislature include several provisions that impact certified child care centers. This document outlines an overview of each change, instructions for what centers need to do about the change, the date the change is effective, and guidance on how licensors will monitor these changes.

The hyperlinks within this document direct centers to where the new law can be found. When reviewing the new law:

- Text that is stricken with a line through it reflects words that are being removed from the law.
- Text that is underlined reflects words that are being added to the law.
- Text that is unchanged reflects what the law was before and continues to be the law.

Later this year, the Minnesota Office of the Revisor of Statutes will update the statute sections on their website to reflect the new laws.

Prone restraint and contraindicated restraint prohibitions

Overview

Prone restraint prohibition. A prone restraint is a physical hold or mechanical restraint that places a person in a face-down position. New requirements for all licensed and certified programs prohibit the use of prone restraints except in very specific brief instances. These exceptions include:

- a person rolling into a prone position during a restraint if the person is restored to a non-prone position as quickly as possible;
- holding a person briefly in a prone restraint to apply mechanical restraints if the person is restored to a non-prone position as quickly as possible; and
- holding a person briefly in a prone restraint to allow staff to safely exit a seclusion room.

Contraindicated restraint prohibition. Programs must not use any type of restraint that is contraindicated for a person's known medical or psychological conditions. In this context, "contraindicated" means the restraint could be harmful for children with certain medical or psychological conditions. If a restraint is contraindicated for a given child, it means the child's medical or psychological conditions rule out the use of that restraint due to the harm that would be caused. An assessment of any contraindications must occur prior to using restraints on a person and the program must document this determination.

See [MN Laws, Chapter 70, Article 17, Section 34 \(2023 245H.13, subd. 9\)](#).

Effective date: July 1, 2023

What providers need to do

Centers must add the prone restraint and contraindicated restraint prohibitions to their behavior guidance training and ensure the director and all existing staff, including substitutes and unsupervised volunteers, are trained on this change immediately and ongoing as part of yearly in-service training. In addition, all newly hired individuals must be trained on this as part of orientation. If a center is aware of a condition for a child for which the use of restraints would be contraindicated, the center must document it, train staff, and ensure the contraindicated restraint is not used on that child.

How licensors will monitor for compliance

During certification visits, licensors will ensure behavior guidance training includes prone restraint and contraindicated restraint prohibitions. Licensors will review documentation of contraindicated restraints, as applicable.

Ages served

Overview

Beginning August 1, 2023, certified centers may serve a child older than 13 years old if either the child remains eligible for the Child Care Assistance Program (CCAP) or if the center serves only school-age children in a setting that has students enrolled in no grade higher than 8th grade. If middle-school-age children are enrolled and combined with elementary children, the risk reduction plan must include policies and procedures to ensure adequate supervision when children are grouped together.

See [MN Laws, Chapter 70, Article 8, Sections 52 \(2023 245H.08, subd. 4\), 53 \(2023 245H.08, subd. 5\), 55 \(2023 245H.13, subd. 7\)](#).

Effective date: August 1, 2023

What providers need to do

Centers that serve middle-school age children, combined with elementary children, must establish policies and procedures in their risk reduction plan to ensure adequate supervision when children are grouped together. Centers may use the [DHS Risk Reduction Plan form](#) to complete this requirement or use their own form.

How licensors will monitor for compliance

If a center is serving children older than 13 years of age, as a part of onsite visits, licensors will review the risk reduction plan for policies and procedures to ensure adequate supervision when children are grouped together.

Nonprescription medication

Overview

The statutory language about administration of medication has been clarified to apply to both prescription and nonprescription medication.

See [MN Laws, Chapter 70, Article 8, Section 54 \(2023 245H.13, subd. 3\)](#).

Effective date: August 1, 2023

What providers need to do

Centers must obtain written permission from the child's parent or legal guardian before administering nonprescription medication, as they would for a prescription medication. All medication, whether prescription or nonprescription, must be labeled, stored, administered, and recorded according to the requirements in 245H.13, subd. 3. To assist centers with medication administration requirements, DHS has created an optional form: [Child Care Center Medication Authorization DHS-8373 \(PDF\)](#). Additionally, centers must incorporate administration of nonprescription medication into their written health and safety policies as required in 245H.13, subd. 8.

How licensors will monitor for compliance

Licensors will look to see that all medication, whether prescription or nonprescription, is labeled, stored, administered, and recorded appropriately.

Notification to the Department of Human Services (DHS)

Overview

Centers must notify DHS and obtain the commissioner's approval before making changes to their operations. This includes changes to the certification holder, authorized agent, certification holder on file with the Secretary of State or Department of Revenue, location of the program, ages served, or schedule. If, for reasons beyond the certification holder's control, prior notice cannot be given, the certification holder must notify the commissioner by the 10th business day after the change.

See [MN Laws, Chapter 70, Article 8, Section 46 \(2023 245H.03, subd. 5\)](#).

Effective date: August 1, 2023

What providers need to do

Before making changes to a program's operations, centers must request the change through the Provider Hub. Refer to the "Provider Hub User Guide" under the "Resources" tab in the Provider Hub for step-by-step instructions on submitting a change request.

How licensors will monitor for compliance

Licensors will verify with the center that the information in the Provider Hub about their operations is accurate.

Authorized agent

Overview

A definition for "authorized agent" has been added to Minnesota Statutes, Chapter 245H. Under the new definition, an authorized agent means the individual designated by the certification holder who is responsible for communicating with the commissioner of human services regarding all items pursuant to 245H.

See [MN Laws, Chapter 70, Article 8, Section 40 \(2023 245H.01, subd. 2a\)](#).

Effective date: immediately

Note: DHS needs time to fully implement this change. When the department is ready to implement this change, centers will be notified and receive more information about how this will be done within the Provider Hub.

What providers need to do

Centers must choose a single person to be designated as the certification holder's authorized agent.

How licensors will monitor for compliance

Licensors will look to see that each certification holder has a designated authorized agent.

Infant safe sleep

Overview

New language has been added to Minnesota Statutes, section 245A.1435 to align with the American Association of Pediatrics' (AAP) recommendations for infant safe sleep and to provide greater clarity for license holders. When an infant is placed down to sleep, the infant's pacifier cannot have anything attached to it and the infant's clothing or sleepwear cannot have weighted materials, a hood, or a bib. An infant may wear a helmet while sleeping if the license holder has specific documentation. A plain language definition of swaddling has been incorporated, as well as clarity on the type of sleepwear that is appropriate for swaddling. License holders have

the option to request a variance to permit the use of a cradleboard, if requested by a parent or guardian for a cultural accommodation.

See [MN Laws, Chapter 70, Article 8, Section 19 \(2023 245A.1435\)](#).

Effective date: January 1, 2024

What providers need to do

There are currently no certified child care centers serving infants; therefore, nothing additional needs to be done. If a certified center serves infants, Minnesota Statutes, section 245H.14, subd. 2, requires that the director, all staff persons, including substitutes, unsupervised volunteers, and any other volunteers receive training on the requirements in Minnesota Statutes, section 245A.1435.

How licensors will monitor for compliance

If a certified center serves infants, the licensor will check to ensure that the director, all staff persons, including substitutes, unsupervised volunteers, and any other volunteers have received training on the new language in Minnesota Statutes, section 245A.1435.

Additional information

Center operator or program operator

Certification holders may no longer have more than one designated center operator or program operator per individual center. There are currently no centers with more than one center operator so nothing needs to be done. Language was modified in 245H.01, subd. 2a to ensure that no individual certified center would have more than one center operator.

See [MN Laws, Chapter 70, Article 8, Section 41 \(2023 245H.01, subd. 3\)](#).

Effective date: immediately

Head Start programs eligible for certification

Beginning January 1, 2024, Head Start preschool programs that only serve children ages 3-5 years old are excluded from licensure and may apply to become certified child care centers. Impacted programs will receive more information from DHS later this year.

See [MN Laws, Chapter 70, Article 8, Sections 6 \(2023 245A.03, subd. 2\), 42 \(2023 245H.01, subd. 5\), 43 \(2023 245H.02\)](#).

Effective date: January 1, 2024

Department of Children, Youth, and Families

The state of Minnesota is working on a transition to create a new Department of Children, Youth, and Families (DCYF). Several programs serving children and youth that are currently the responsibility of the Minnesota Departments of Human Services, Public Safety, and Education will be included in the transfer to the new Department. A commissioner for this new cabinet-level agency will be appointed by July 1, 2024, with the complete transfer of programs completed by July 1, 2025. There are no immediate changes. A [new Implementation Office](#) within Minnesota Management and Budget will guide the transition, in consultation with the relevant departments. Licensing will share more information, as it becomes available.

Background studies

Updates on legislative changes related to background studies are posted on the ["What's new" for background studies webpage](#).