

Notice of Agency Rule-making Adoption

AGENCY: Department of Health and Human Services,
Division of Licensing and Regulatory Services, Community Services Programs

CHAPTER NUMBER AND TITLE: 10-148 CMR Chapter 33, Rules for the Certification of Family Child Care Providers.

ADOPTED RULE NUMBER:

(LEAVE BLANK - ASSIGNED BY SECRETARY OF STATE)

CONCISE SUMMARY. The final adoption of the major substantive portions of Chapter 33 has been reviewed and authorized by the Maine Legislature (Resolve 2009, chapter 8). Pursuant to Public Law 07, Chapters 324 (22 M.R.S.A. §§ 7702-B) and 7802 (2) (B)(6)), and 631 (22 M.R.S.A. §2662); Public Law 05, Chapters 12, Part KK (budget, increase fees); 530 (22 M.R.S.A. §8303-A), and 640 (22 M.R.S.A. §§ 7802 (2), 8301-A (2), 8403 (2)) and 22 M.R.S.A. §7702-A (3), the Family Child Care Providers rules are amended as follows:

[A] Adds “operating without a certificate” provisions, see Section 5.1. [B] Adds a limitation on reapplication after denial or revocation of a certificate, Sec. 5.4. [C] The application fee for a provisional or temporary certificate is \$80.00, Sec. 2.7.1.1. [D] The term of a full certificate is increased to 2 years. Sec. 3.1.4. [E] A \$160 renewal fee will be assessed biennially for a full or a conditional certificate, Sec. 2.7.1.2. [F] At least one unannounced inspection will take place between 6 and 18 months after the issuance of a full certificate, Sec. 4.5. [G] To clearly identify these rules as “certification” rules, the word certification is added to the name of the rules - “Rules for the Certification of Family Child Care Providers,” [H] Adds swimming pool rules, Section 11.5. [I] Deletes requirement to register swimming pools with Maine Center for Disease Control and Prevention, Sec. 14.8.1.2. [J] Definitions required to implement the swimming pool rules were added and for clarity and consistency the definitions of “Designee” and “Home” were deleted. [K] Other changes to the rules include the addition of procedures for obtaining a waiver, Sec. 2.23; increased penalties, Sec. 5.1.2 and 5.6; safety requirements for equipment, Sec. 14.4.6, and an exception to the staff-to-child ratios, Sec. 11.5.9. [L] Providers must notify the department when a swimming or wading pool is installed. Sec. 6.1.7. [M] Providers must obtain written authorization from the parent for the child to participate in a high risk activity, including swimming. Sec. 6.2.4.

The following technical/formatting/other changes are also included:

Renumbered Chapter 33. This facilitates identification of each provision for ease of reference and future amendment of rules. The division is in the process of aligning the numbering system of all certification and licensing rules. Updated names of state agencies. Moved content of Sections XIX, XX, XXI into Section 5. Modifications made to Sections 2.20, 6.3.5, 14.5.1, and 19.1.22 in order to comply with 5 M.R.S.A. § 8056 (1) (B).

Economic impact on small businesses. [Applies to businesses with 20 or fewer employees.] The fee increase will have an impact on the 1,639 certified Family Child Care Programs in Maine. This is the 1st fee increase since 1998 and there is no less costly reasonable alternative to achieve the purpose of Public Law 2005, Chapter 12, Part KK.

EFFECTIVE DATE: July 1, 2009

(TO BE FILLED IN BY SECRETARY OF STATE)

AGENCY CONTACT PERSON: Catherine M. Cobb, Director
AGENCY NAME: Division of Licensing and Regulatory Services
ADDRESS: 11 SHS, Augusta, Maine 04333
TELEPHONE: (207) 287-2979 Toll free 1 (800) 791-4080
 Toll Free TTY 1 (800) 606-0215 Fax: (207) 287-5807
catherine.cobb@maine.gov

Please approve bottom portion of this form and assign appropriate MFASIS number.

APPROVED FOR PAYMENT _____ DATE: _____

Authorized signature: **Catherine M. Cobb, Director**

Division of Licensing and Regulatory Services, Community Services Programs

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CCL01	015 10A	056 301	(8710)	100%		