



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Sub. H.B. 77

132nd General Assembly
(L-132-0061-1)

Rep. Retherford

BILL SUMMARY

- Provides for the licensure of sick-child care centers, which provide child care on a temporary, irregular basis to children with short term illnesses.
 - Prohibits a center from operating without a license issued by the Ohio Department of Job and Family Services (ODJFS).
 - Requires ODJFS to regulate licensed centers and extends to the Department powers and duties similar to those granted to it in its regulation of licensed child care programs.
 - Establishes requirements governing the operation of centers, including those related to staffing, admission of children, and health care practices.
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CONTENT AND OPERATION

Overview: sick-child care centers

The bill provides for the licensure of sick-child care centers, which are facilities that provide child care on a temporary, irregular basis to children with short-term illnesses. It prohibits a center from operating without a license issued by the Ohio Department of Job and Family Services (ODJFS).¹

The bill also requires ODJFS to adopt rules governing the regulation of such centers and extends to the Department powers and duties similar to those granted in its

¹ R.C. 5104.01, 5104.15, and 5104.99.

regulation of licensed child care programs.² It further establishes standards for the operation of licensed sick-child care centers, including those related to staffing, the admission of children, and health care practices.³

Licensure and regulation of day-care centers generally

At present, ODJFS licenses and regulates child care, including child day-care centers and drop-in centers (programs providing child care on a temporary, irregular basis).⁴ Ohio law also recognizes that the child care needs of sick and injured children may be administered to, under the supervision of physicians or registered nurses, in places located in and operated by hospitals, but does not require such places to be licensed by ODJFS or provide for any ODJFS oversight.⁵

Licensure of sick-child care centers

The bill prohibits a sick-child care center from operating without an ODJFS-issued license.⁶ It defines a center as a place that provides child care, including administering to the needs of school-age children during school hours, for children with short-term illnesses or other medical conditions on a temporary, irregular basis. For the purposes of the bill, a sick-child care center does not include a place located in and operated by a hospital.⁷

License application

To obtain a license to operate a sick-child care center, an application must be submitted to the ODJFS Director and include all of the following:

- (1) A site plan and proposal describing how the center aims to satisfy the bill's requirements and ODJFS rules;
- (2) The maximum number of children to be served by the center at one time;
- (3) The number of adults who will be providing care;

² R.C. 5104.0113.

³ R.C. 5104.0113, 5104.16, and 5104.17.

⁴ R.C. 5104.015 and 5104.02.

⁵ R.C. 5104.01(K).

⁶ R.C. 5104.01(OO) and 5104.15(B).

⁷ R.C. 5104.01(OO).

(4) An admissions policy that meets the bill's requirements, including having been reviewed by a physician;

(5) Application fees, as established by the Director;

(6) Any other information the Director considers necessary.⁸

Investigation and inspection

When an application is filed on a center's behalf, the bill authorizes the ODJFS Director to investigate and inspect the center to determine whether it satisfies the bill's requirements and rules adopted by ODJFS in accordance with the bill's provisions.⁹

Issuance of a license

The Director must issue a license to a center if the Director determines that the center satisfies the bill's requirements and ODJFS rules. The license remains valid until it is surrendered to the ODJFS Director or is revoked.¹⁰

Denial or revocation of a license

The Director may deny a license application or revoke a sick-child care center license if the center does not comply with the bill's requirements or rules adopted by ODJFS.¹¹

If the Director finds, after notice and hearing pursuant to the Administrative Procedure Act,¹² that any applicant for licensure or licensed center is in violation of the bill's provisions and rules adopted by ODJFS, the Director may issue an order of denial or revocation. Upon the issuance of either order, an appeal may be filed in accordance with the Administrative Procedure Act.¹³

⁸ R.C. 5104.15(C).

⁹ R.C. 5104.15(D).

¹⁰ R.C. 5104.15(D).

¹¹ R.C. 5104.15(E).

¹² R.C. Chapter 119.

¹³ R.C. 5104.15(F).

Operating without a license

Injunction

On determining that a center is operating without a license, the ODJFS Director must notify one of the following entities: the Attorney General, the prosecuting attorney of the county in which the center is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center is located. On receipt of the notice, the recipient must file a complaint in the court of common pleas of the county in which the center is located requesting the court grant an order enjoining the center's operation. The court must grant an injunction upon a showing that the center is operating without a license.¹⁴

Penalties

A center that operates without a license is subject to the following penalties:¹⁵

(1) For each offense, the center must be fined not less than \$100 nor more than \$500 multiplied by the average number of children per day receiving child care at the center;

(2) For a first violation, the center must reduce the number of children for which it may provide care to the number of children to whom a type B family day-care home may provide care (in general, six children);

(3) For a second violation, the center must stop providing child care until it obtains a license from ODJFS;

(4) For a third violation, the offender is guilty of a first degree misdemeanor, must pay the fine described in (1), may be subject to an additional fine totaling not more than \$1,000, is subject to jail time of not more than 180 days, and the center must cease providing care until it obtains a license;¹⁶

(5) For a fourth or subsequent violation, the offender is guilty of a fifth degree felony under the bill, must pay the fine described in (1), may be subject to an additional fine of not more than \$2,500, is subject to jail time of 6, 7, 8, 9, 10, 11, or 12 months, and the center must cease providing care until it obtains a license.¹⁷

¹⁴ R.C. 5104.15(H).

¹⁵ R.C. 5104.99(D).

¹⁶ R.C. 2929.24(D), not in the bill and 5104.99(D)(2)(c).

¹⁷ R.C. 2929.14, not in the bill and 5104.99(D)(2)(d).



Effect of license surrender or application withdrawal

The bill specifies that the surrender of a sick-child care center license or withdrawal of an application for licensure does not prohibit the ODJFS Director from instituting any actions described in the bill.¹⁸

Rules governing sick-child care centers

The bill requires the ODJFS Director, in consultation with the Director of the Ohio Department of Health, to adopt rules governing the operation of sick-child care centers. The rules must be adopted in accordance with the Administrative Procedure Act, be consistent with the bill's provisions, and reflect the needs of children with short-term illnesses and other temporary medical conditions.¹⁹

The rules must include all of the following:

- (1) Standards for ensuring that the physical environment and equipment of the sick-child care center are safe and sanitary;
- (2) Standards for the supervision, care, and discipline of children receiving child care in the center;
- (3) Standards for qualifications and screening of staff members;
- (4) Standards for training and continuing education of staff members, including recognizing the signs and symptoms of illnesses, administering medications, making referrals to pediatric specialists or facilities, and communicating with caretaker parents;
- (5) Admissions policies and procedures;
- (6) Emergency procedures, including procedures for making referrals or transfers to pediatric specialists or facilities;
- (7) Standards for record keeping;
- (8) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in the Administrative Procedure Act;
- (9) Inspection procedures;
- (10) Procedures and standards for setting initial application fees;

¹⁸ R.C. 5104.15(G).

¹⁹ R.C. 5104.0113.



(11) Procedures for receiving, recording, and responding to complaints about sick-child care centers;

(12) Any other standards and procedures necessary to implement the bill's provisions.

Health care policies and procedures

The bill also requires the ODJFS Director to adopt rules governing health care policies and procedures, including:

- Medical protocols for specific illnesses or symptoms, developed by a physician who is board-certified in family medicine or general pediatrics; and
- Infection control, including universal and standard precautions to be used by staff members.

Regarding the precautions relating to infection control, the rules must address hand washing; disinfecting and sterilizing equipment, linens, furniture, walls, flooring, and toilets; handling and disposing of needles; and wearing and disposing of gloves and other protective garments.

Discharging a child from a licensed day-care center

The bill requires ODJFS to adopt rules regarding the discharge of a child enrolled in a licensed day-care program to the child's parent or guardian or a sick-child care center designated by the parent or guardian.²⁰

Sick-child care center requirements

In addition to the standards to be adopted in rules, the bill establishes several requirements governing the operation of sick-child care centers, including those related to center staffing, physical facilities, and health care practices.²¹

Staffing

With respect to the staffing of a center, each center must satisfy the following requirements:

²⁰ R.C. 5104.015(F).

²¹ R.C. 5104.16(A).

(1) A physician, certified nurse practitioner, or registered nurse must be on the premises whenever children are in care;

(2) A licensed practical nurse or nurse aide must be on the premises whenever children are in care;

(3) The maximum number of children per staff member is four to one;

(4) The maximum number of preschool-age children or school-age children receiving care in each room is two to one.

Physical environment

With respect to a center's physical environment, all of the following are required of the center:

(1) It must provide a separate room for evaluating children before admission.

(2) It must provide a separate room for children recovering from illnesses who are no longer contagious.

(3) If the center admits children exhibiting symptoms of or diagnosed with chicken pox, it must provide a separate room for the care of those children that is ventilated separately from the rest of the center.

(4) It must provide a separate room for children exhibiting symptoms of gastrointestinal illnesses.

(5) For each room where child care is provided, it must include within the room or immediately adjacent to the room at least one toilet and one sink.

(6) It must have an area set aside for play, entertainment, education, and other activities.

(7) It must provide each child, depending on the child's age or physical size, with a crib, bed, or cot and appropriate bed linens.

(8) It must install electrical outlet covers or plates, childproof window locks and door latches, corner and edge bumpers for sharp edges, and nonslip, easily maintained floor surfaces.

Health care practices

Each center must satisfy the following related to health care practices.



(1) It must meet the Guideline for Hand Hygiene in Healthcare Settings developed by the federal Centers for Disease Control and Prevention.

(2) It must meet the Bloodborne Pathogens Standard for health care settings developed by the federal Occupational Safety and Health Administration.

(3) It must have a referral network that provides for timely consultation with pediatric subspecialists and, when necessary, transfer of children to a hospital offering more advanced pediatric care, including access to an air and ground transportation system responsive and appropriately equipped and staffed.²²

Review of health care policies and procedures

The bill requires a physician, certified nurse practitioner, or registered nurse to review the center's health care policies and procedures on a quarterly basis.²³

Admissions policy

Under the bill, each center must develop a written policy regarding the admission of children to the center.²⁴ The admissions policy must include a description of the types of illnesses and injuries for which a child may be admitted to or excluded from the center.

Physician review and approval

A physician who is board-certified in family medicine or general pediatrics must review and approve the admissions policy at regular intervals. The physician must complete the review and approval in consultation with a physician, certified nurse practitioner, or registered nurse who is affiliated with the center and performs evaluations of children seeking admission to it.²⁵

The bill requires the admissions policy to be reviewed and approved at the time of the initial application for licensure, after the first six months of operation, and thereafter on an annual basis. Written reviews must be kept on file at the center and made available for inspection.²⁶

²² R.C. 5104.16(A).

²³ R.C. 5104.16(B).

²⁴ R.C. 5104.17(A).

²⁵ R.C. 5104.17(A).

²⁶ R.C. 5104.17(A).

Evaluating a child before admission

Each child seeking admission to the center must be evaluated before admission. A physician, certified nurse practitioner, or registered nurse must perform the required evaluation and one must be conducted for each day the child seeks admission.²⁷

Under the bill, an evaluation must be based on the following:

- The child's symptoms;
- The likelihood of contagion;
- The health risks presented to other individuals;
- The center's ability to provide adequate care;
- The center's admissions policy.

Preliminary evaluation

A center must conduct a preliminary evaluation of a child over the telephone or Internet before the child's caretaker parent brings the child to the center. Based on the preliminary evaluation, the physician, certified nurse practitioner, or registered nurse must notify the parent whether the parent may bring the child to the center for further evaluation.²⁸

In-person evaluation

If the center allows a parent to bring a child to the center for further evaluation, a second evaluation must be performed before admission. This evaluation includes a physical examination of the child, an assessment of the child's symptoms, and the taking of a medical history.²⁹

Decision whether to admit

The decision of a registered nurse, nurse practitioner, or physician not to admit a child to the center is final.³⁰ If a child is admitted to the center for care, the bill requires

²⁷ R.C. 5104.17(B).

²⁸ R.C. 5104.17(B).

²⁹ R.C. 5104.17(B).

³⁰ R.C. 5104.17(C).

the center to provide to the child's caretaker parent a summary of its policies and procedures, including those for notifying the parent in the event of an emergency.³¹

Care for sick children only

The bill prohibits a center from providing child care for any child who is not sick or does not have a short-term medical condition. Rooms used to provide child care for sick children may not be used for any other child care purpose at any time.³²

HISTORY

ACTION	DATE
Introduced	02-22-17

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³¹ R.C. 5104.17(D).

³² R.C. 5104.16(C).

