



# Ministry of Health

# ORDER IN COUNCIL

**SUBJECT:**

This Order amends various provisions in the Child Care Licensing Regulation, the Community Care and Assisted Living Regulation and the Residential Care Regulation to increase flexibility, clarify requirements, and, modernize language.

**MUST BE DELIVERED TO CABINET OPERATIONS BY:**

LEGISLATION CONTACT:  
Katherine Thiessen-Wale (250-952-2283)

CLIFF# 1025420

OTHER CONTACT (IF ANY):  
Della Skinner (250-952-1774)

AUTHORITY (ACT AND SECTION): *Community Care and Assisted Living Act*, section 34

**EXAMINED BY****APPROVED****DATE**☐

ORIGINATOR  
*Legislation*

Della Skinner

☐

DIRECTOR  
*Legislation*

Katherine Thiessen-Wale

☐

EXECUTIVE DIRECTOR  
*Legislation & Intergovernmental Relations*

Ann Marr

☐

OTHER STAFF  
*Program*

☐

DIRECTOR / EXECUTIVE DIRECTOR  
*Program*

Sharon Stewart

☐

ASSISTANT DEPUTY MINISTER  
*Program*

Doug Hughes

☐

ASSISTANT DEPUTY MINISTER  
*Health Sector Planning & Innovation Division*

Heather Davidson

☐

ASSOCIATE DEPUTY MINISTER  
*Health Services*

Lynn Stevenson

☐

ASSOCIATE DEPUTY MINISTER  
*Corporate Services*

☐

DEPUTY MINISTER

Steve Brown

**MINISTER'S OFFICE STAFF:** On approval by Minister, signed Order must be forwarded direct to Cabinet Operations.

*Strictly Confidential – Advice to Minister*

**MINISTRY OF HEALTH  
ORDER IN COUNCIL BRIEFING NOTE**

**Cliff # 1025420**

**PREPARED FOR:** The Honourable Terry Lake, Minister – **FOR DECISION**

**SUBJECT:** Amendments to the Child Care Licensing Regulation, the Community Care and Assisted Living Regulation and, the Residential Care Regulation

**AUTHORITY:** *Community Care and Assisted Living Act, s. 34*

**PURPOSE:** Various amendments to, increase flexibility, clarify requirements and, modernize language.

**BACKGROUND:**

The *Community Care and Assisted Living Act (CCALA)* establishes the minimum requirements for health and safety of persons care in licensed community care facilities, including child day care facilities. Various amendments are proposed for the Child Care Licensing Regulation, Community Care and Assisted Living Regulation, and, Residential Care Regulation to address housekeeping issues, to align with strategic priorities of Government, keep current with issues in the care field and reduce regulatory burden, all while ensuring the health and safety of persons in care.

The following amendments were undertaken to meet recommendations of the Ombudsperson's report on seniors' care, to align with the Early Years Strategy, to address Health Authority's concerns, and to more clearly define child and youth residential care.

**DISCUSSION:**

The proposed amendments to the Child Care Licensing Regulation will:

- Clarify the age at which children may attend unlicensed programs for summer camps (6 years old) and for day camps (5 years old);
- Provide additional flexibility regarding the use of outdoor play space as well as reducing the play space requirements from 7 meters squared per child to 6 meters squared per child.
- Clarify the use of terms related to types of care offered;
- Remove the requirement of posting an original Early Childhood Educator certificate to allow posting of a copy of the certificate which has been validated through the Ministry of Children and Family Development's online validation system;
- Reduce the regulatory requirement for a licensee to obtain a pre-employment medical clearance letter from an employee (which mirrors requirements under the Residential Care Regulation since 2009); and
- Provide clarity on phrases and descriptors that may not be used in naming or advertising programs that are not licensed.

The proposed amendments to the Residential Care Regulation will:

- Define Child and Youth Residential care as a prescribed residential program;
- Add a requirement that a licensee must advise a person in care of their right to contact emergency services and to provide access to the “Helpline for Children”;
- Separate out Mental Health and Substance Use to distinguish them as two distinct types of care;
- Define the term “school” and clarify when residences are exempted from requirements established under the Act;
- Add a requirement that in addition to notifying the medical health officer, a licensee must also give notice of any change of operation to the persons in care, their contact persons, and parents or representatives.

The proposed amendments common to both the Child Care Licensing Regulation and the Residential Care Regulation will:

- Amend the definition of “emergency restraint” to clarify when the use of restraints is appropriate;
- Clarify the requirements for volunteers who are not providing care or supervision;
- Update the language in the regulations to include the prohibition of vapour products (effective on the date that section 1 of the *Tobacco Control Amendment Act, 2015*, S.B.C. 2015, c. 11 is brought into force).

The proposed amendment to the Community Care and Assisted Living Regulation is as follows:

- Adding all provinces and all territories (except Nunavut) as prescribed provinces for the purpose of s.11(2)(b)(i) of the *CCALA*; this will enable the Medical Health Officer to issue a licence to operate a community care facility to corporations that have a director in another province who agrees to be available to respond to inquiries about the facility and provide financial or other records.

#### **CONSULTATIONS:**

s.12

#### **FINANCIAL IMPLICATIONS: N/A**

#### **IMPACT ON REGULATORY COUNT: +8**

#### **RECOMMENDATION:**

That the Minister signs this Order as drafted and forward it to Cabinet Operations for consideration at the next available Cabinet meeting.

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ADM, Health Sector Planning & Innovation Division: Heather Davidson      Tel: 250-952-2569  
Director, Legislation: Katherine Thiessen-Wale      Tel: 250-952-2283  
Drafter: Della Skinner  
Date: June 3, 2016  
File Name with Path: s.15  
s.15

## APPENDIX - Reference for Minister

### Child Care Licensing Regulation – section 4 is repealed and replaced:

#### Division 2 – Exemptions from the Act

Use of terms prohibited if this regulation does not apply

~~4 A program for children to which this regulation or the School Act does not apply must not, in any part of the title or advertising of the program,~~

~~(a) use the words “care” or “school”, or~~

~~(b) imply, directly or indirectly, that the primary purpose of the program is to provide care, regulated under this or another enactment, for children.~~

4 A person who does not hold a licence must not do any of the following in relation to a program for children:

(a) use any of the following phrases in any part of the title or advertising of the program:

(i) Family Child Care;

(ii) Group Child Care;

(iii) In-Home Multi-Age Child Care;

(iv) Multi-Age Child Care;

(v) Occasional Child Care;

(vi) Preschool

(b) Imply, directly or indirectly, in any part of the title or advertising of the program, that the primary purpose of the program is to provide care that is regulated under the Act.

### ***Community Care and Assisted Living Act***

#### Part 2 – Community Care Facilities

##### Operating or advertising without a licence

5 A person who does not hold a licence must no

(a) operate, or hold themselves out as operating, a community care facility,

(b) provide, or hold themselves out as providing, care in a community care facility, or

(c) accommodate, or hold themselves out as accommodating, a person who, in the opinion of a medical health officer, requires care in a community care facility.

### ***Interpretation Act***

#### Powers to make regulations

41 (1) If an enactment provides that the Lieutenant Governor in Council or any other person may make regulations, the enactment must be construed as empowering the Lieutenant Governor in Council or that other person, for the purpose of carrying out the enactment according to its intent, to

(a) make regulations as are considered necessary and advisable, are ancillary to it, and are not inconsistent with it,

(b) provide for administrative and procedural matters for which no express, or only partial, provision has been made,

(c) limit the application of a regulation in time or place or both,

(d) prescribe the amount of a fee authorized by the enactment,

(e) provide, for a regulation made by or with the approval for the Lieutenant Governor in Council, that its contravention constitutes an offence, and

(f) provide that a person who is guilty of an offence created under paragraph (e) is liable to a penalty not greater than the penalties provided in the *Offence Act*.

(2) A regulation made under the authority of an enactment has the force of law.



## Order in Council Cabinet Summary Information

**Ministry:** Health

**Date prepared:** June 3, 2016

**Cliff #:** 1025420

**Log #:**

Section	Detail
<b>1. Type of OIC:</b>	<input type="checkbox"/> BRDO appointment* <input type="checkbox"/> Non-BRDO appointment <input type="checkbox"/> Not a regulation <input checked="" type="checkbox"/> Regulation - provide Regulatory Count: <b>+8</b>
<b>2. Routine or For Attention:</b>	<input checked="" type="checkbox"/> Routine <input type="checkbox"/> For Attention because (select all that apply): <div style="margin-left: 20px;"> <input type="checkbox"/> REQUIRES DISCUSSION  <input type="checkbox"/> CONTROVERSIAL  <input type="checkbox"/> REVISES POLICY </div>
<b>3. Required Effective Date (Select all timing constraints that apply. Include Rationale. )</b>	<input type="checkbox"/> <b>No Timing Requirements</b> <b>RUSH -</b> <input type="checkbox"/> Legal requirement - Per Legislative Counsel's comments, the OIC must be deposited by the date specified. <input type="checkbox"/> Communication Lag - In order to give stakeholders sufficient time to adapt to the proposed change, the ministry would like to provide _____ months of lead time. <input type="checkbox"/> Media requirement. A Public Announcement is planned. <input checked="" type="checkbox"/> s.12,s.13

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\* For Board Resourcing Development Office ("BRDO") appointments, no need to fill out rows 7 through 12. However, along with the tagged OIC, please provide the Biography and signed-off Request for Appointment (BRDO documents).

<b>4. Processing Instructions after approval</b>	<input checked="checked" type="checkbox"/> Process normally <input type="checkbox"/> Hold because (select all that apply): <input type="checkbox"/> Ministry requests hold until release by the Minister, no later than _____ <input type="checkbox"/> Other _____
<b>5. Authorizing Act and section number(s)</b>	<i>Community Care and Assisted Living Act s. 34(5)(b) and (d)</i>

<p><b>6. Purpose, Content and Context (OIC “Essence”)</b></p>	<p>The <i>CCALA</i> establishes the minimum requirements for health and safety of persons cared for in licensed community care facilities, including child day care facilities. Various amendments are proposed for the CCLR, CCALR and RCR, to address housekeeping issues, to align with strategic priorities of Government, keep current with issues in the care field and reduce regulatory burden, all while ensuring the health and safety of persons in care.</p> <p>The proposed amendments to the Child Care Licensing Regulation include:</p> <ul style="list-style-type: none"> <li>• Clarifying the age at which children may attend unlicensed school age programs for summer camps (6 years old) and for day camps (5 years old);</li> <li>• Clarifying the use of terms related to types of care offered;</li> <li>• Removing the requirement of posting an original Early Childhood Educator certificate to allow posting of a copy of the certificate which has been validated through the Ministry of Children and Family Development’s online validation system;</li> <li>• Reducing the regulatory requirement for a licensee to obtain an employee pre-employment medical clearance letter (which mirrors requirements under the Residential Care Regulation since 2009);</li> <li>• Providing additional flexibility regarding the use of outdoor play space as well as reducing the play space requirements from 7 meters squared per child to 6 meters squared per child</li> </ul> <p>The proposed amendments to the Residential Care Regulation include:</p> <ul style="list-style-type: none"> <li>• Defining Child and Youth Residential care;</li> <li>• Separating out Mental Health and Substance Use to clarify the two distinct types of care;</li> <li>• Defining the term “school” and clarifying when residences are exempted from the Act;</li> <li>• Adding a requirement (and timelines) that in addition to notifying the medical health officer, a licensee must also give notice of any change of operation to the persons in care, their contact persons and, parents or representatives;</li> <li>• Adding a requirement to advise a person in care of their right to contact emergency services and to provide access to the “HelpLine for Children”.</li> </ul> <p>The proposed amendments common to both the Child Care Licensing Regulation and the Residential Care Regulation include:</p> <ul style="list-style-type: none"> <li>• Clarifying the definition of emergency restraint to simplify when restraints are appropriate;</li> <li>• Clarifying the requirements for volunteers who are not providing care or supervision;</li> <li>• Updating the language to prohibit the use of vapour products (effective on the date that section 1 of the <i>Tobacco Control Amendment Act, 2015</i>, S.B.C. 2015, c. 11 is brought into force).</li> </ul> <p>The proposed amendment to the Community Care and Assisted Living Regulation is as follows:</p> <ul style="list-style-type: none"> <li>• Adding all provinces and all territories (except Nunavut) as prescribed provinces.</li> </ul>
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<b>7. Fiscal Management Considerations; Cost; Fine, Fee or Administrative Penalty</b>	N/A
<b>8. Legislative Counsel Cautions</b> (yellow or red tags) Please speak to each concern expressed.	s.12,s.14
<b>9. Stakeholder and Affected Party Consultations</b> Who is impacted? Include First Nations, local governments, stakeholders, ministries, agencies or offices (e.g., Labour Relations). Include support or non-support (and why), reason for concern, status of consultation and resolution as of the date of the reviewing Cabinet meeting.	s.12

<b>10. Trade Obligations</b> <input checked="" type="checkbox"/> Trade is not affected. <div style="float: right;"> The OIC affects trade and  <input type="checkbox"/> BC, Alberta and Saskatchewan Trade Offices have been notified.  <input type="checkbox"/> Trade partners have not yet been notified because:  _____ </div>	
<b>11. Prerequisites</b> (e.g., sponsorship, agreements, surveys, etc.) that need to be met and how each prerequisite has been met (or "N/A").	N/A
<b>12. Communication plan overview (or "N/A").</b> *Please provide a copy of ALL DM signed OIC Summary Information docs to <u>Ryan Jabs</u> .	Written notification will be emailed to health authority community care licensing programs as well as sent to various stakeholders (BC Recreation and Parks Association, YMCA's etc). Staff from the Ministry of Health will also post the deposited OIC on the community care licensing website.

  
\_\_\_\_\_  
Steve Brown  
  
June 10, 2016  
\_\_\_\_\_  
Date Signed

Contact Name: Katherine Thiessen-Wale  
Title: Director of Legislation  
Phone Number: (250) 952-2283  
Prepared By: Della Skinner  
Phone Number: (250) 952-1774

- ☒ Distribution Form
- ☒ Regulatory Criteria Checklist
- ☐ Regulatory Criteria Exemption Form
- ☐ Map(s)
- ☐ Other:

## ORDER IN COUNCIL DISTRIBUTION FORM

**STATUTE:** *Community Care and Assisted Living Act*

For OIC Office use only:

**MINISTRY:** Health

### SUMMARY OF SUBJECT MATTER

- Various amendments are proposed for the Child Care Licensing Regulation; Community Care and Assisted Living Regulation; and, Residential Care Regulation to address housekeeping issues, align with strategic priorities of Government, keep current with issues in the care field and, to reduce regulatory burden, all while ensuring the health and safety of persons in care.

**ORIGINATOR** (Name/Ministry/Branch/Telephone/email):

Katherine Thiessen-Wale / Health / Legislation / 250-952-2283 / [Katherine.Thiessen-Wale@gov.bc.ca](mailto:Katherine.Thiessen-Wale@gov.bc.ca)

### COPIES

☒ PDF copies (Please provide name, Ministry and exact email address for each recipient below):

Katherine Thiessen-Wale, Ministry of Health, [Katherine.Thiessen-Wale@gov.bc.ca](mailto:Katherine.Thiessen-Wale@gov.bc.ca)

Gary Heshmat, Ministry of Health, [Gary.Heshmat@gov.bc.ca](mailto:Gary.Heshmat@gov.bc.ca)

Carola Bouchard, Ministry of Health, [Carola.Bouchard@gov.bc.ca](mailto:Carola.Bouchard@gov.bc.ca)

☐ Certified true copy of this OIC - for legal or evidentiary purposes only  
(Please provide name, Ministry/Company, mailing address, city, postal code and telephone):



Page 11

Withheld pursuant to/removed as

s.12;s.14

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No.

, Approved and Ordered

\_\_\_\_\_  
*Lieutenant Governor*

**Executive Council Chambers, Victoria**

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) the Child Care Licensing Regulation, B.C. Reg. 332/2007, is amended as set out in the attached Schedule 1,
- (b) the Community Care and Assisted Living Regulation, B.C. Reg. 217/2004, is amended as set out in the attached Schedule 2,
- (c) the Residential Care Regulation, B.C. Reg. 96/2009, is amended as set out in the attached Schedule 3,
- (d) effective on the date that section 1 of the *Tobacco Control Amendment Act, 2015*, S.B.C. 2015, c. 11, is brought into force, the Child Care Licensing Regulation is amended as set out in the attached Schedule 4, and
- (e) effective on the date that section 1 of the *Tobacco Control Amendment Act, 2015* is brought into force, the Residential Care Regulation is amended as set out in the attached Schedule 5.

\_\_\_\_\_  
*Minister of Health*

\_\_\_\_\_  
*Presiding Member of the Executive Council*

\_\_\_\_\_  
*(This part is for administrative purposes only and is not part of the Order.)*

**Authority under which Order is made:**

Act and section: *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75, s. 34

Other: *OICs 728/2007; 476/2004; 225/2009*

June 2, 2016

R/487/2016/33

## SCHEDULE 1

- 1 Section 1 of the Child Care Licensing Regulation, B.C. Reg. 332/2007, is amended**
- (a) by adding the following definition:**
- “day of school closure”** means any day on which school is closed to students, including the following days:
- (a) a day in the summer, spring or winter vacation;
  - (b) a statutory holiday;
  - (c) a day a school is closed as a result of a strike or lockout in respect of some or all of the employees of the board of education assigned to the school;
  - (d) a day set aside in the school calendar for an administrative day;
  - (e) any other day set aside in the school calendar when students are not in attendance; , **and**
- (b) by repealing the definition of “period of school closure”.**
- 2 Section 2 (1) (d) is amended by striking out “during periods of school closure,” and substituting “on a day of school closure,”.**
- 3 Section 3 is amended**
- (a) in subsection (1) by striking out “Subject to subsection (2)” and substituting “Subject to subsections (2) and (2.1),”**
- (b) by repealing subsection (1) (d) and substituting the following:**
- (d) a program commonly known as a summer camp that
    - (i) is provided only to children who will be 6 years or older on or before December 31 of the year in which the summer camp operates,
    - (ii) operates for no more than 13 weeks in each calendar year during the months of June to September, and
    - (iii) operates only on a day of school closure;
  - (d.1) a program commonly known as a day camp that
    - (i) is provided only to children who will be 5 years or older on or before December 31 of the year in which the day camp is operated and who are
      - (A) enrolled in and attend a school or francophone school within the meaning of the *School Act*, or an independent school within the meaning of the *Independent School Act*, or
      - (B) registered under section 13 of the *School Act* and are provided with an educational program within the meaning of the *School Act*,
    - (ii) operates during the months of September to June, and
    - (iii) operates only on a day of school closure; ,
- (c) by adding the following subsection:**

(2.1) A summer camp or day camp is not exempt if it is operated in a single family dwelling, *and*

*(d) by repealing subsection (3).*

**4 Section 4 is repealed and the following substituted:**

**Use of terms prohibited if this regulation does not apply**

**4** A person who does not hold a licence must not do any of the following in relation to a program for children:

(a) use any of the following phrases in any part of the title or advertising of the program:

- (i) Group Child Care;
- (ii) Preschool;
- (iii) Family Child Care;
- (iv) Occasional Child Care;
- (v) Multi-Age Child Care;
- (vi) In-Home Multi-Age Child Care;

(b) imply, directly or indirectly, in any part of the title or advertising of the program, that the primary purpose of the program is to provide care that is regulated under the Act.

**5 Section 11 (4) is amended by striking out “the certificate” and substituting “the certificate, or a copy of the certificate,”.**

**6 Section 16 (1) and (2) is repealed and the following substituted:**

(1) A licensee must have

- (a) at least 6 m<sup>2</sup> of outdoor play area for each child, or
- (b) if the licence provides more than one type of care program, an outdoor play area that meets the requirement set out in paragraph (a) for the type of care program, provided by the licensee, with the largest maximum group size permitted in Column 2 of the table in section 1 of Schedule E.

(2) Subsection (1) does not apply to the following:

- (a) a licensee who provides a care program described as Occasional Child Care or Child-minding;
- (b) a licensee who provides a care program described as Family Child Care, but the licensee must provide an indoor and outdoor play area for children.

(2.1) A licensee may use the same outdoor play area at the same time for more than one care program if

- (a) the care programs are of the same type as prescribed in Column 1 of section 1 of Schedule E,
- (b) there is no increase in the risk to the health and safety of children,
- (c) the licensee complies with the requirement set out in subsection (1) (a), and

- (d) the licensee continues to comply with the ratio of employees to children prescribed in Column 4 of section 1 of Schedule E.

**7 Section 19 is amended**

- (a) *by repealing subsection (1) (e),*
- (b) *in subsection (4) (a) by striking out “under Division 2 [Employee Qualifications], or” and substituting “under Division 2 [Employee Qualifications], which must be verified by the licensee using a system established and maintained by the director of the early childhood educator registry, or”, and*
- (c) *by adding the following subsection:*
  - (5) Despite this section, a licensee may employ a person as a volunteer who does not provide care to children or supervise children if the licensee or the manager has first met with the person and obtained all of the following:
    - (a) a criminal record check for the person;
    - (b) character references in respect of the person;
    - (c) evidence that the person has complied with the Province’s immunization and tuberculosis control programs.

**8 Section 56 is amended**

- (a) *by renumbering the section as section 56 (1), and*
- (b) *by adding the following subsection:*
  - (2) A licensee must ensure that the policies and procedures referred to in subsection (1) are implemented by employees.

**9 Section 1 of Schedule H is amended by repealing the definition of “emergency restraint” and substituting the following:**

**“emergency restraint”,** which means a restraint that is necessary to protect the child or others from imminent serious physical harm that is not approved and documented in a child’s care plan; .

## **SCHEDULE 2**

**1 Section 2.1 of the Community Care and Assisted Living Regulation, B.C. Reg. 217/2004, is repealed and the following substituted:**

**Prescribed provinces and territories**

- 2.1** The following provinces and territories of Canada are prescribed for the purposes of section 11 (2) (b) (i) [*powers of medical health officer*] of the Act:
  - (a) Alberta;
  - (b) Manitoba;
  - (c) New Brunswick;
  - (d) Newfoundland and Labrador;

- (e) Northwest Territories;
- (f) Nova Scotia;
- (g) Ontario;
- (h) Prince Edward Island;
- (i) Québec;
- (j) Saskatchewan;
- (k) Yukon.

### **SCHEDULE 3**

**1     *Section 2 of the Residential Care Regulation, B.C. Reg. 96/2009, is amended***

**(a) *by repealing subsection (1) and substituting the following:***

- (1) A prescribed residential program for the purpose of paragraph (b) of the definition of “care” in section 1 of the Act is Child and Youth Residential, being a program that
  - (a) provides a type of care set out in subsection (2) to a child or youth, or
  - (b) promotes or supports the behavioural, intellectual, physical or social development of a child or youth in a therapeutic residential setting. , *and*

**(b) *by repealing subsection (2) (b) and substituting the following:***

- (b) Mental Health, being residential care for persons who are in care primarily due to a mental disorder;
- (b.1) Substance Use, being residential care for persons who are in care primarily due to substance dependence; .

**2     *Section 3 is repealed and the following substituted:***

**School residences exempted**

- 3     (1)** In this section, “school” means any of the following:
  - (a) a school within the meaning of the *School Act*;
  - (b) a francophone school within the meaning of the *School Act*;
  - (c) an independent school within the meaning of the *Independent School Act*.
- (2)** A residential facility is exempt from the Act if
  - (a) the facility is located wholly on property owned or controlled by a school, and
  - (b) the facility does not provide a type of care described in section 2 (1) (a) or (b).

**3     *Section 9 is amended***

**(a) *by repealing subsection (1) and substituting the following:***



(1) A licensee must not suspend, temporarily or permanently, operation of a community care facility unless the licensee has, at least one year before the suspension begins, given written notice to the following:

- (a) a medical health officer;
- (b) the persons in care;
- (c) the contact persons of the persons in care;
- (d) the parents or representatives of the persons in care. ,

**(b) by repealing subsection (2) (a) and substituting the following:**

- (a) at least 120 days before the reduction, expansion or change begins, given written notice to the following:
  - (i) a medical health officer;
  - (ii) the persons in care;
  - (iii) the contact persons of the persons in care;
  - (iv) the parents or representatives of the persons in care, and , **and**

**(c) by repealing subsection (3) (a) and substituting the following:**

- (a) either, at least 120 days before the sale, lease or transfer, given written notice to the following:
  - (i) a medical health officer;
  - (ii) the persons in care;
  - (iii) the contact persons of the persons in care;
  - (iv) the parents or representatives of the persons in careor been informed by a medical health officer that notice
  - (v) need not be in writing, or
  - (vi) may be given less than 120 days before the sale, lease or transfer, and .

**4     *The following section is added to Division 1 of Part 3:***

**Helpline for Children**

**24.1** (1) In this section, “**Helpline for Children**” means the Helpline for Children operated by the Ministry of Children and Family Development.

- (2) A licensee must
  - (a) ensure that a person in care who is receiving a type of care described in section 2 (1) (a) or (b) is advised of the person’s right to contact emergency services or the Helpline for Children,
  - (b) provide the person with contact information for emergency services and the Helpline for Children, and
  - (c) provide the person with access to reliable communications equipment to contact emergency services or the Helpline for Children in a private setting.

**5     *Section 37 is amended***

- (a) *in subsection (1) by striking out “the manager has obtained” and substituting “the manager has first obtained”, and*
- (b) *by adding the following subsection:*
- (3) Despite this section, a licensee may employ a person as a volunteer who does not provide care to persons or supervise persons if the licensee or manager has first met with the person and obtained all of the following:
- (a) a criminal record check for the person;
  - (b) character references in respect of the person;
  - (c) evidence that the person has complied with the Province’s immunization and tuberculosis control programs.
- 6 *Section 42 (1) (b) is repealed and the following substituted:*
- (b) assist persons in care with the activities of daily living, including eating, moving about, dressing and grooming, bathing and other forms of personal hygiene, in a manner consistent with the health, safety and dignity of persons in care.
- 7 *Section 63 (3) (c) (iv) is amended by striking out “or nurse practitioner” and substituting “, nurse practitioner or dietitian”.*
- 8 *Section 74 (1) (a) is repealed and the following substituted:*
- (a) if the restraint is necessary to protect the person in care or others from imminent serious physical harm, or .
- 9 *Section 78 is amended by adding the following subsection:*
- (1.1) In addition to the requirements under subsection (1), a licensee must keep, for each person in care who receives a type of care described in section 2 (1) (a) or (b), a record that the information required to be provided under section 24.1 was provided to the person in care.
- 10 *Section 1 of Schedule D is amended by repealing the definition of “emergency restraint” and substituting the following:*
- “**emergency restraint**” means any use of a restraint that is necessary to protect the person in care or others from imminent serious physical harm and is not agreed to under section 74 *[when restraints may be used]*; .

#### **SCHEDULE 4**

- 1 *Section 13 of the Child Care Licensing Regulation, B.C. Reg. 332/2007, is amended*
- (a) *in subsection (3) by striking out “no one smokes” and substituting “no one smokes or uses tobacco, holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette”, and*
- (b) *by adding the following subsection:*

(5) In this section:

“**activated e-cigarette**” has the same meaning as in the *Tobacco and Vapour Products Control Act*;

“**e-cigarette**” has the same meaning as in the *Tobacco and Vapour Products Control Act*;

“**tobacco**” has the same meaning as in the *Tobacco and Vapour Products Control Act*.

## SCHEDULE 5

*1 Section 23 of the Residential Care Regulation, B.C. Reg. 96/2009, is repealed and the following substituted:*

### Smoking and use of vapour products

**23** (1) A licensee must ensure that

- (a) no one other than a person in care smokes or uses tobacco, holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette while on the premises of a community care facility,
- (b) employees do not smoke or use tobacco, use an e-cigarette or hold an activated e-cigarette while supervising persons in care, and
- (c) if necessary for the safety of the person in care, a person in care who is smoking or using tobacco, using an e-cigarette or holding an activated e-cigarette is supervised.

(2) In this section:

“**activated e-cigarette**” has the same meaning as in the *Tobacco and Vapour Products Control Act*;

“**e-cigarette**” has the same meaning as in the *Tobacco and Vapour Products Control Act*;

“**tobacco**” has the same meaning as in the *Tobacco and Vapour Products Control Act*.



## Regulatory Criteria Checklist

The purpose of the checklist is to demonstrate that legislative and regulatory changes have been developed according to the Regulatory Reform Policy, while still protecting public health, safety and the environment.

Name of authorizing Legislation: *Community Care and Assisted Living Act*

Name of Regulation, if applicable: *Child Care Licensing; Community Care and Assisted Living; and Residential Care Regulations*

Purpose: *This Order amends various provisions in the Child Care Licensing Regulation, the Community Care and Assisted Living Regulation and the Residential Care Regulation to increase flexibility, clarify requirements and, modernize language.*

### Regulatory Criteria

☒ I certify that the following Regulatory Reform Principles were considered for this legislation or regulation:

- 1. Is needed and efficient**
- 2. Is outcome based and will be regularly reviewed**
- 3. Was transparently developed and will be clearly communicated**
- 4. Is cost effective and evidence based**
- 5. Is supportive of BC's economy and small business**

Please provide an explanation if any of the criteria above were not considered (continued on page 2):

Number of Regulatory Requirements to be added:	+	25
Number of Regulatory Requirements to be eliminated:	-	17
Net Change:	=	+8

Signature, Responsible Minister or Head of Regulatory Authority

Date:

Signator Name: *Minister Terry Lake*

Ministry/Agency Name: *Ministry of Health*

Contact Name: *Katherine Thiessen-Wale, Director, Legislation 250-952-2283*

# Regulatory Criteria Checklist

## Explanation Continued:

### Attachment for Regulatory Criteria Checklist

#### *Child Care Licensing Regulation 332/2007*

Number of Regulatory Requirements to be added:	12
Number of Regulatory Requirements to be eliminated:	-8
NET CHANGE:	+4

#### *Community Care and Assisted Living Regulation 217/2004*

Number of Regulatory Requirements to be added:	0
Number of Regulatory Requirements to be eliminated:	0
NET CHANGE:	0

#### *Residential Care Regulation 96/2009*

Number of Regulatory Requirements to be added:	10
Number of Regulatory Requirements to be eliminated:	-6
NET CHANGE:	+4

#### *Effective on the date the Tobacco Control Act comes into force (d) of Order - Child Care Licensing Regulation 332/2007*

Number of Regulatory Requirements to be added:	0
Number of Regulatory Requirements to be eliminated:	0
NET CHANGE:	0

#### *Effective on the date the Tobacco Control Act comes into force (e) of Order - Residential Care Regulation 96/2009*

Number of Regulatory Requirements to be added:	3
Number of Regulatory Requirements to be eliminated:	-3
NET CHANGE:	0

**Total Count for Regulatory Reform**

**+8**

# **MINISTRY OF HEALTH**

## **AMENDMENTS TO THE: CHILD CARE LICENSING REGULATION; COMMUNITY CARE AND ASSISTED LIVING REGULATION; and, RESIDENTIAL CARE REGULATION**

### ***COMMUNITY CARE AND ASSISTED LIVING ACT***

## **SECTION NOTES**

**June 3, 2016**



## ORDER-IN-COUNCIL

### **Purpose:**

- Makes amendments to three regulations as set out in the attached Schedules:
  - Schedule 1: Child Care Licensing Regulation
  - Schedule 2: Community Care and Assisted Living Regulation
  - Schedule 3: Residential Care Regulation
  - Schedules 4 and 5: Update both the Child Care Licensing Regulation and, the Residential Care Licensing Regulation to align with the *Tobacco and Vapour Products Control Act* and will come into force on the date the *Tobacco Control Amendment Act*, 2015, S.B.C. 2015, c.11 is brought into force. [It is anticipated that the amendments to the Act, and the Tobacco and Vapour Products Control Regulation, will be brought into force effective September 1, 2016.]

### **Significance:**

- The amendments will come into force on the date of deposit with the Registrar of Regulations.

**SCHEDULE 1, section 1  
amends Child Care Licensing Regulation  
Section 1 Definitions**

**Purpose:**

- Section 1 of the Child Care Licensing Regulation defines terms used in the regulation.

**Significance:**

- The definition of “period of school closure” will be replaced by one for “day of school closure” to emphasize that unlicensed camps may only operate on a day when school is closed to students; e.g. professional development days, statutory holidays, or Spring break.

**SCHEDULE 1, section 2  
amends Child Care Licensing Regulation  
Section 2(1) Care programs**

**Purpose:**

- Section 2 defines the different types of care programs regulated under this Regulation.

**Significance:**

- Amends the reference in subsection (1)(d) from “during periods of school closure” to “on a day of school closure” to align with amended definition of “day of school closure”.

**SCHEDULE 1, section 3  
amends Child Care Licensing Regulation  
Section 3(1) Certain programs exempted**

**Purpose:**

- Section 3 of the Regulation outlines the programs that are exempt from licensing requirements of the Act.

**Significance:**

- Currently, section 3 of the Regulation stipulates that summer and day camp programs are exempt from the Act. In order to increase clarity, section 3(1) is being redrafted to address summer camps and day camps in separate paragraphs.
- Both summer camps and day camps will remain exempt; in other words, they are considered unlicensed programs.
- The new subsection 3(1)(d), applicable to summer camp, clarifies that only children who will be at least 6 years old on or before December 31 of that year may attend. Summer camps may operate for no more than 13 weeks and only during the months of June to September.

s.13

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- The new subsection 3(1)(d.1), applicable to day camp, clarifies that day camps are only for children who will be at least 5 years old on or before December 31 of that year and have already started school (enrolled and attend or are registered in a school). Day camp may operate only during school breaks during the school year, between the months of September to June (e.g. professional development days, winter break or March break).
  - A new provision will be added as paragraph (2.1) to specify that a summer camp or day camp operated in a single family dwelling would not be exempt and would require a licence.
  - Subsection (3) is repealed as it refers to subsection (1)(g) which was repealed in 2011.

**SCHEDULE 1, section 4**  
**amends Child Care Licensing Regulation**  
**Section 4 Use of terms prohibited if this regulation does not apply**

**Purpose:**

- Section 4 of the Regulation provides authority to prohibit a person from using certain terms in the title or advertising of a program for children if a person does not hold a licence.

**Significance:**

- Currently, section 4 prohibits the use of the words “care” or “school” in any part of the title or advertising of a program for children.
- The amended paragraph (a) will be expanded to clarify that a program that is not licensed under this Act must not, in any part of the title or advertising of the program, be identified as any of the care programs defined in section 2 -- e.g. Family Child Care; Group Child Care; In-Home Multi-Age Child Care; Multi-Age Child Care; Occasional Child Care; or, Preschool.
- A new subsection (b) will be added to emphasize that a person who does not hold a licence must not imply, directly or indirectly, in any part of the title or advertising that the primary purpose of the program is to provide care that is regulated under the Act.

**SCHEDULE 1, Section 5**  
**amends Child Care Licensing Regulation**  
**Section 11 Posting and advertising of license and certificate**

**Purpose:**

- Section 11 of the Regulation outlines the requirement of a child care licensee to prominently display its licence and, any educator's certificate/credentials.

**Significance:**

- The Early Childhood Educator certificate demonstrates that a person is qualified to work as a certified early childhood educator (ECE). Many ECE's work at more than one facility.
- A small amendment will be made to the existing provision to allow a licensee to display a copy of a person's ECE certificate. This would mean that an ECE who works at more than one facility can provide a copy of the certificate to the licensee of each facility. Currently, the provision states the licensee must display the certificate of any educator or assistant employed to work in the community care facility but does not expressly state that it can be a *copy*.
- Section 19 [Character and skill requirements] is being amended by section 7 of this OIC to require a licensee to *verify* an ECE certificate via the Ministry of Children and Family Development's early childhood educator registry.



**SCHEDULE 1, Section 6  
amends Child Care Licensing Regulation  
Section 16 Play area, materials and equipment**

**Purpose:**

- Section 16 specifies the requirements for play area, materials and equipment that a licensee must have for each child.

**Significance:**

- The current provision will be repealed and substituted with the following.
- Subsection (1)(a) will reduce the amount of play space a licensee must have for each child from seven metres squared to six metres squared. This amendment will assist those licensed child care operators who are struggling with the high cost of land, while still ensuring adequate outdoor play space to promote healthy outdoor activity.

s.13

- Subsection (1)(b) stipulates that if a licensee provides more than one type of care program, they must have enough outdoor play space to meet the requirements for the largest maximum group size permitted in Column 2 of the table in section 1 of Schedule E.
- Subsection 2(a) and (b) exempts Occasional Child Care and Child-minding care programs from subsection (1)(a), play space requirements. These programs do not have a standard group of children so there is no expectation for outdoor play space.
- Subsection (2.1) will provide additional flexibility for a licensee to allow more than one type of care program to use the outdoor play area at the same time, as long as: the care programs are of the same type as prescribed in Column 1 of section 1 of Schedule E; there is no increase in the risk to the health and safety of the children; the licensee meets the requirement of six meters squared of outdoor play area for each child; and, the employee-to-child ratio is maintained.

**SCHEDULE 1, Section 7  
amends Child Care Licensing Regulation  
Section 19 Character and skill requirements**

**Purpose:**

- Section 19 outlines the obligations of a licensee to ensure employees have the appropriate character and skill requirements for the job they are performing.

**Significance:**

- Subsection (1)(e), which specifies that a licensee must obtain a statement signed by a medical practitioner that a person is physically and psychologically capable for working with children and carrying out duties as assigned in a community care facility will be repealed. This requirement was considered too onerous and, if required, the Medical Health Officer is authorized to request a doctor's note under section 21(2).
- Currently subsection (4)(a) states that a licensee must not employ a person in a community care facility as an educator or an assistant unless the person holds a certificate issued under Division 2 [Employee Qualifications]. This provision will be amended and updated to state that the certificate must now be verified by the licensee using a system established and maintained by the director of the early childhood educator registry. Certificates are now verified through the Ministry of Children and Family Development's website.
- Subsection (5) will be added as a new provision; it will specify that a licensee may employ a person who does not provide direct care as a volunteer if the licensee or the manager has first met with the person and obtained all of the following: a criminal record check for the person; character references; and, evidence that the person has complied with the Province's immunization and tuberculosis control program. This provision provides for a level of security without being too prescriptive.

**SCHEDULE 1, Section 8  
amends Child Care Licensing Regulation  
Section 56 Community care facility records**

**Purpose:**

- Stipulates the requirements of a licensee to ensure a healthy and safe environment while children are under the supervision of employees.

**Significance:**

- The section will be renumbered as 56(1).
- A new subsection (2) will be added to require a licensee to ensure that policies and procedures referred to in subsection (1) are implemented by employees (this aligns with existing requirements in the Residential Care Regulation).

**SCHEDULE 1, Section 9 amends Schedule H  
of the Child Care Licensing Regulation  
Reportable incidents**

**Purpose:**

- Schedule H prescribes reportable incidents for the purpose of sections 52 and 55 of the Regulation.
- Specifies the harmful actions/situations that are not permitted and which must be reported by a licensee to the medical health officer within 24 hours of the occurrence.

**Significance:**

- Within the list of prescribed reportable incidents in Schedule H of the regulation, the term “emergency restraint” is amended to mean any use of a restraint that is necessary to protect the person in care or others from imminent serious physical harm and is not approved and documented in a child’s care plan.

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s.13

**SCHEDULE 2, section 1**  
**amends Community Care and Assisted Living Regulation**  
**Section 2.1 Prescribed provinces and territories**

**Purpose:**

- Section 11(2)(b) of the *Community Care and Assisted Living Act* provides that the medical health officer must not issue a licence to an applicant to operate a community care facility unless the medical health officer is of the opinion that the applicant, if a corporation, has a director permanently resident in BC or a prescribed province, who agrees to be available by telephone or other communication medium to respond to inquiries from the director of licensing or the medical health officer within 24 hours of a request and, to provide to them financial and other records of the community care facility that can reasonably be presumed to contain information relevant to the administration of this Act and the regulation.
- Currently, section 2.1 of the Community Care and Assisted Living Regulation identifies the prescribed provinces.

**Significance:**

- The current provision lists only Alberta as a prescribed province.
- All provinces and territories other than Nunavut are signatories to the Agreement on Internal Trade and should be prescribed for the purposes of section 11(2)(b) of the Act.
- Section 2.1 will list all provinces and territories (except Nunavut) to be prescribed provinces for this provision.

**SCHEDULE 3, section 1  
amends Residential Care Regulation  
Section 2 (1) Types of Care**

**Purpose:**

- The Residential Care Regulations regulate residential care programs for adults, children and youth.
- Section 2 of the Residential Care Regulation outlines the types of care that may be provided by a licensee.

**Significance:**

- Subsection (1) will be amended.
- The definition of a prescribed residential program for Child and Youth Residential as defined in the Act will be expanded to add subsection (1)(b), referencing programs that promote or support the behavioural, intellectual, physical or social development of a child or youth in a therapeutic residential setting. These types of programs will be considered a prescribed residential program and must be licensed.

These amendments clarify to both health authority staff and business operators,<sup>s.13</sup>  
<sup>s.13</sup> that these types of programs are required to be licensed and ensure that all children and youth in a prescribed residential care program are protected under the Act.

**SCHEDULE 3, section 1  
amends Residential Care Regulation  
Section 2 (2) Types of Care continued**

**Purpose:**

- Section 2 of the Residential Care Regulation outlines the types of care that may be provided by a licensee.

**Significance:**

- Subsection (2)(b) will be amended to address the care programs "Mental Health" and "Substance Use" in two separate provisions to clarify that they are two distinct types of care, thus avoiding the possibility that a facility would switch from providing one type of care to the other regardless of whether or not it is equipped to provide the service it is switching to.
- The new subsection (2)(b), addressing Mental Health, clearly defines "Mental Health" as being residential care for persons who are in care primarily due to a mental disorder.
- The new subsection (2)(b.1) addressing Substance Use, clearly defines "Substance Use" as being residential care for persons who are in care primarily due to substance dependence.

**SCHEDULE 3, section 2  
amends Residential Care Regulation  
Section 3 School residences exempted**

**Purpose:**

- Section 3 exempts facilities that fall under the *School Act* or *Independent School Act* from the regulation.

**Significance:**

- The current section 3 will be divided into two new subsections to provide clarity that facilities such as private schools (e.g. St. Margaret's), whose focus is on education are excluded from the regulation and do not need to be licensed, but facilities (such as Venture Academy) who are providing care in the form of "therapeutic residential treatment" to children and youth are required to be licensed.
- Subsections (1) (a) (b) and (c) will define the term "school" to mean a school or francophone school within the meaning of the *School Act* and an independent school within the meaning of the *Independent School Act*.
- Subsection (2) will provide for the exemption for a residential facility that is wholly on property owned or controlled by a school and does not provide the type of care described in section 2 (1)(a) or (b) (e.g. being a prescribed residential school program for children and youth that promotes or supports the behavioural, intellectual, physical or social development of a child or youth in a residential setting).



**SCHEDULE 3, section 3  
amends Residential Care Regulation  
Section 9 Notice of change of operation**

**Purpose:**

- Section 9 prohibits a licensee from changing the operation of a community care facility without giving sufficient prior written notice to the medical health officer.

**Significance:**

- The current provision will be expanded to require a licensee to provide sufficient prior written notice – not just to the medical health officer (as currently required) – but also to the persons in care, the contact persons of persons in care, and the parents or representatives of persons in care.
- Subsection (1) will be amended to state that before a licensee can temporarily or permanently suspend operation of a community care facility, it must give at least one year written notice.
- Subsection (2) will be amended to state that before a licensee can reduce, expand, or substantially change the nature of the community care facility, it must give at least 120 days' written notice.
- Subsection (3) will be amended to state that before a licensee can sell, lease or otherwise transfer control of a community care facility, it must either give at least 120 days' written notice, or have been informed by the medical health officer that notice need not be in writing or may be given fewer than 120 days in advance.

**SCHEDULE 3, section 4  
amends Residential Care Regulation  
by adding Section 24.1 Helpline for Children**

**Purpose:**

- Section 24.1 will be a new provision that requires a licensee to ensure persons in care are able to contact emergency services.

**Significance:**

- Subsection (1) will be added to define the term “Helpline for Children” to mean the Helpline for Children operated by the Ministry of Children and Family Development.
- Subsection (2)(a) will be added to specify that a licensee must ensure that a person in care is advised of his or her right to contact emergency services, such as an ambulance, or the Helpline for Children.
- Subsection (2)(b) will be added to require a licensee to provide a person in care with contact information for emergency services and the Helpline for Children.
- Subsection (2)(c) will be added to require a licensee to provide a person in care with access to reliable communications equipment to contact emergency services or the Helpline for Children in a private setting.

These amendments are in response to Ministry of Health and Health Authority staff concerns that vulnerable children/youth that are in community care facilities, <sup>s.13</sup>  
<sup>s.13</sup> need to have the right to telephone or contact emergency services for help.

**SCHEDULE 3, section 5  
amends Residential Care Regulation  
Section 37 Character and skill requirements**

**Purpose:**

- Section 37 outlines the obligations of a licensee to ensure employees have the appropriate character and skill requirements for the job they are performing.

**Significance:**

- Subsection (1) will be amended by striking out "the manager has obtained" and substituting "the manager has first obtained".
- Subsection (3) is a new provision and will be added to specify that a licensee may employ a person as a volunteer if the licensee or the manager has first met with the person and obtained all of the following: a criminal record check for the person; character references; and evidence that the person has complied with the Province's immunization and tuberculosis control program.

**SCHEDULE 3, section 6  
amends Residential Care Regulation  
Section 42 Staffing Coverage**

**Purpose:**

- Section 42 outlines the obligations of a licensee to ensure there are sufficient employees on duty to meet the needs of persons in care.

**Significance:**

- The current provision will be amended and updated to reflect modern terminology used to describe the types of activities that a person in care would need assistance with.
- Employees of licensees would be required to assist persons in care with activities of daily living, including eating, "moving about", dressing, grooming, bathing and forms of personal hygiene, in a manner consistent with the health, safety and dignity of persons in care. The activities concerned remain substantially the same as the current provision.

**SCHEDULE 3, section 7  
amends Residential Care Regulation  
Section 63 Food preparation and service**

**Purpose:**

- Section 63 outlines the obligations of a licensee to ensure food safety.

**Significance:**

- The current provision will be amended to permit a dietitian, as well as a medical practitioner or nurse practitioner to reassess a person in care's on-going room tray service.
- Registered dietitians usually work full time at the premise and would be more readily available to undertake reassessment.

s.13

**SCHEDULE 3, section 8  
amends Residential Care Regulation  
Section 74 When restraints may be used**

**Purpose:**

- Section 74 outlines the situations and requirements for the use of restraints on persons in care.

**Significance:**

- Subsection (1)(a) will be amended to emphasize when a restraint may be used. A licensee may use a restraint if the restraint is necessary protect the person in care or others from imminent serious physical harm.
- Note: Section 10 of Schedule 3, will add the definition of "emergency restraint" to Schedule D of the Regulation, which means that any use of a restraint, that is necessary to protect the person in care or others from imminent serious physical harm will be considered a reportable incident.

**SCHEDULE 3, section 9  
amends Residential Care Regulation  
Section 78 Records for each person in care**

**Purpose:**

- Section 78 outlines the requirements for licensees to maintain records for each person in care (e.g. name, age, medical insurance number, family contact information etc.).

**Significance:**

- Subsection (1.1) will be added as a cross-reference to the new provision under section 24.1 [Helpline for Children].
- The new subsection will require licensees to keep a record that the information required in section 24.1 was provided to the person - (e.g. the person in care was advised of their right to contact emergency services such as ambulance or police or the Helpline for Children and the person in care was provided with the contact information for these services).
- Currently, records for each person in care must be available for inspection by the director of licensing or a medical health officer.

**SCHEDULE 3, section 10  
amends Residential Care Regulation  
Schedule D Reportable incidents**

**Purpose:**

- Schedule D to the Residential Care Regulation defines the terms that are considered reportable incidents.

**Significance:**

- If a person in care is involved in a reportable incident, the licensee must notify the parent or representative, or contact person, of the person in care, a medical practitioner or nurse practitioner responsible for the care of the person in care, the funding program, if any, and the medical health officer.
- As noted with respect to section 8 above, "emergency restraint" is a defined term and will be amended to mean any use of a restraint that is necessary to protect the person in care or others from imminent serious physical harm and is not agreed to under section 74 [When restraints may be used].

s.13



**SCHEDULE 4 section 1  
amends Child Care Licensing Regulation  
Section 13 Environment**

**Purpose:**

- Section 13 of the Child Care Licensing Regulation stipulates the requirements of a licensee to ensure a healthy and safe environment while children are under the supervision of employees.

**Significance:**

- The Child Care Licensing Regulation will be updated to align with the *Tobacco and Vapour Products Control Act* and will come into force on the date the *Tobacco Control Amendment Act*, 2015, S.B.C. 2015, c.11 is brought into force. [It is anticipated that the amendments to the Act, and the Tobacco and Vapour Products Control Regulation, will be brought into force effective September 1, 2016.]
- Subsection (3) will be amended by striking out “no one smokes” and substituting “no one smokes or uses tobacco, holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette”
- Subsection (5) will be added to define the new terms: “activated e-cigarette”, “e-cigarette” and “tobacco” to have the same meaning as in the *Tobacco and Vapour Products Control Act*.

**SCHEDULE 5, section 1  
amends Residential Care Regulation  
Section 23 Smoking**

**Purpose:**

- Section 23 of the Residential Care Regulation outlines the requirements of licensees regarding smoking on the premises of a community care facility.

**Significance:**

- The Residential Care Regulation will be updated to align with the *Tobacco and Vapour Products Control Act* and will come into force on the date the *Tobacco Control Amendment Act*, 2015, S.B.C. 2015, c.11 is brought into force. [It is anticipated that the amendments to the Act, and the Tobacco and Vapour Products Control Regulation, will be brought into force effective September 1, 2016.]
- Subsection (1) replaces the current provision to add the terms “activated e-cigarette”, “e-cigarette” and “tobacco” and to specify that a licensee must ensure: no one other than a person in care smokes or uses tobacco, holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette while on the premises of a community care facility; employees do not smoke or use tobacco, use an e-cigarette or hold an activated e-cigarette while supervising persons in care, and; if necessary for the safety of the person in care, a person in care who is smoking or using tobacco, using an e-cigarette or holding an activated e-cigarette is supervised.
- Subsection (2) will be added to define the new terms: “activated e-cigarette”, “e-cigarette” and “tobacco” to have the same meaning as in the *Tobacco and Vapour Products Control Act*.

## **SPEAKING NOTES – June 3, 2016**

### **Amendments to three regulations**

#### **under the *Community Care and Assisted Living Act*:**

- 1) CHILD CARE LICENSING REGULATION;**
- 2) COMMUNITY CARE AND ASSISTED LIVING REGULATION; and,**
- 3) RESIDENTIAL CARE REGULATION.**

- I am pleased to bring forward amendments to the Child Care Licensing Regulation, Community Care and Assisted Living Regulation, and the Residential Care Regulation for your consideration.
- These regulations that serve to govern the spectrum of licensed child care facilities in the province, are being updated to align with strategic priorities of Government, to keep current with issues in the care field, and to reduce regulatory burden, all while ensuring the health and safety of children in care.
- First, the Child Care Licensing Regulation will be amended to :
  - Increase the minimum age at which children may attend unlicensed summer camps from 5 to 6 years old;
  - Clarify that day camps are only for children who have already started school, and that day camps can only run during school breaks such as professional development days or March break;
  - To provide for even further protection, neither the day camps nor the summer camps may operate in a single family dwelling.
  - To readily ascertain whether a child care program is licensed or not, it will be prohibited for an unlicensed operator to use any of the terms defined as “care program” categories -- group child care, preschool, family child care, occasional child care, multi-age child care, and in-home multi-age child care – in the title or advertising of a program.
  - To meet Government’s commitment to increase day care spaces as well as provide flexibility for licensed operators, the

requirements around the use of outdoor play space are being amended. More than one care program may now use the outdoor play space at the same time as long as they are the same types of care program categories and the minimum outdoor play space requirement is maintained

- Also, recognizing that affordability of land is a significant issue for operators, especially in urban areas, the minimum outdoor play space will be reduced from 7 to 6 metres squared per child, as long as the employee- to-child ratio is maintained and there is no increased risk to the health and safety of the children in care.
- It will be specified that a person who does not hold a license must not imply, directly or indirectly, in any part of a title or advertising that the purpose of the program is to provide care that is regulated under the Act.
- Regulatory burden will be reduced by eliminating the requirement for a licensee to obtain a pre-employment medical clearance letter when hiring a new employee as it was considered too burdensome. However, if needed, there still remains within the current regulations, an avenue for the medical health officer to request a licensee to produce a medical clearance letter.
- As well, the requirement to post an employee's original Early Childhood Educator certificate is being eliminated, and it will be permissible to post a copy of an ECE certificate that has been validated through the online validation system.
- Licensees will be allowed to permit volunteers (such as Elders) who are not providing care or supervision to provide social and/or recreational assistance.
- Further to a recommendation of the Ombudsperson, the definition of "emergency restraint" will be amended to specify that the use of restraints is appropriate to protect a person in care from imminent serious physical harm.

Secondly, as all provinces and territories (except Nunavut) are signatories to the Agreement on Internal Trade, the Community Care and Assisted Living Regulation is being amended to enable a medical health officer to issue a licence to operate a community care facility to corporations that have a director in any of those provinces who agrees to be available to respond to inquiries about the facility and provide financial or other records as needed.

Thirdly, the Residential Care Regulations - which regulates residential care programs for adults, children and youth – will be amended as follows:

- To ensure that children and youth are protected, programs that promote or support the behavioural, intellectual, physical or social development of a child or youth in a therapeutic residential setting will be considered a prescribed residential program as defined by the Regulations and must be licensed;
- Licensees will be required to advise persons in a prescribed residential program of their right to contact emergency services (e.g. 9-1-1 or the Helpline for Children) and must provide contact information and a means of making contact;
- The definition of “school” will be amended to exempt a residential facility if it is wholly located on school property.
- To provide clarity for operators, the provision for Mental Health and Substance Use has been separated out to distinguish them as two distinct types of care thus avoiding the possibility that a facility would switch from one type of care to the other regardless of whether or not they are equipped to provide the service they are switching to.
- Licensees will be required to provide sufficient prior written notice of a change in operations – such as suspending, expanding or selling a facility -- to the persons in care and their parents or representatives, as well as to medical health officers.

- Lastly, the Residential Care and Child Care Licensing Regulations will include references to vapour products, which will soon be regulated similarly to tobacco under the *Tobacco and Vapour Products Control Act*.

I welcome your comments.

s.15

**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No.

, Approved and Ordered

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) the Child Care Licensing Regulation, B.C. Reg. 332/2007, is amended as set out in the attached Schedule 1,
- (b) the Community Care and Assisted Living Regulation, B.C. Reg. 217/2004, is amended as set out in the attached Schedule 2,
- (c) the Residential Care Regulation, B.C. Reg. 96/2009, is amended as set out in the attached Schedule 3,
- (d) effective on the date that section 1 of the *Tobacco Control Amendment Act, 2015*, S.B.C. 2015, c. 11, is brought into force, the Child Care Licensing Regulation is amended as set out in the attached Schedule 4, and
- (e) effective on the date that section 1 of the *Tobacco Control Amendment Act, 2015* is brought into force, the Residential Care Regulation is amended as set out in the attached Schedule 5.



Minister of Health

Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Community Care and Assisted Living Act*, S.B.C. 2002, c. 75, s. 34

Other: OICs 728/2007; 476/2004; 225/2009

June 2, 2016

R/487/2016/33

## SCHEDULE 1

**1 Section 1 of the Child Care Licensing Regulation, B.C. Reg. 332/2007, is amended**

**(a) by adding the following definition:**

**"day of school closure"** means any day on which school is closed to students, including the following days:

- (a) a day in the summer, spring or winter vacation;
- (b) a statutory holiday;
- (c) a day a school is closed as a result of a strike or lockout in respect of some or all of the employees of the board of education assigned to the school;
- (d) a day set aside in the school calendar for an administrative day;
- (e) ~~any other day set aside in the school calendar when students are not in attendance; , and~~

**(b) by repealing the definition of "period of school closure".**

**2 Section 2 (1) (d) is amended by striking out "during periods of school closure," and substituting "on a day of school closure,".**

**3 Section 3 is amended**

**(a) in subsection (1) by striking out "Subject to subsection (2)" and substituting "Subject to subsections (2) and (2.1)",**

**(b) by repealing subsection (1) (d) and substituting the following:**

- (d) a program commonly known as a summer camp that
  - (i) is provided only to children who will be 6 years or older on or before December 31 of the year in which the summer camp operates,
  - (ii) operates for no more than 13 weeks in each calendar year during the months of June to September, and
  - (iii) operates only on a day of school closure;
- (d.1) a program commonly known as a day camp that
  - (i) is provided only to children who will be 5 years or older on or before December 31 of the year in which the day camp is operated and who are
    - (A) enrolled in and attend a school or francophone school within the meaning of the *School Act*, or an independent school within the meaning of the *Independent School Act*, or
    - (B) registered under section 13 of the *School Act* and are provided with an educational program within the meaning of the *School Act*,
  - (ii) operates during the months of September to June, and
  - (iii) operates only on a day of school closure; ,

**(c) by adding the following subsection:**



(2.1) A summer camp or day camp is not exempt if it is operated in a single family dwelling. , and

(d) *by repealing subsection (3).*

**4 Section 4 is repealed and the following substituted:**

**Use of terms prohibited if this regulation does not apply**

4 A person who does not hold a licence must not do any of the following in relation to a program for children:

(a) use any of the following phrases in any part of the title or advertising of the program:

(i) Group Child Care;

(ii) Preschool;

(iii) Family Child Care;

(iv) Occasional Child Care;

(v) Multi-Age Child Care;

(vi) In-Home Multi-Age Child Care;

(b) imply, directly or indirectly, in any part of the title or advertising of the program, that the primary purpose of the program is to provide care that is regulated under the Act.

5 *Section 11 (4) is amended by striking out "the certificate" and substituting "the certificate, or a copy of the certificate,".*

**6 Section 16 (1) and (2) is repealed and the following substituted:**

(1) A licensee must have

(a) at least 6 m<sup>2</sup> of outdoor play area for each child, or

(b) if the licence provides more than one type of care program, an outdoor play area that meets the requirement set out in paragraph (a) for the type of care program, provided by the licensee, with the largest maximum group size permitted in Column 2 of the table in section 1 of Schedule E.

(2) Subsection (1) does not apply to the following:

(a) a licensee who provides a care program described as Occasional Child Care or Child-minding;

(b) a licensee who provides a care program described as Family Child Care, but the licensee must provide an indoor and outdoor play area for children.

(2.1) A licensee may use the same outdoor play area at the same time for more than one care program if

(a) the care programs are of the same type as prescribed in Column 1 of section 1 of Schedule E,

(b) there is no increase in the risk to the health and safety of children,

(c) the licensee complies with the requirement set out in subsection (1) (a), and

- (d) the licensee continues to comply with the ratio of employees to children prescribed in Column 4 of section 1 of Schedule E.

**7 Section 19 is amended**

- (a) *by repealing subsection (1) (e),*
- (b) *in subsection (4) (a) by striking out “under Division 2 [Employee Qualifications], or” and substituting “under Division 2 [Employee Qualifications], which must be verified by the licensee using a system established and maintained by the director of the early childhood educator registry, or”, and*
- (c) *by adding the following subsection:*
- (5) Despite this section, a licensee may employ a person as a volunteer who does not provide care to children or supervise children if the licensee or the manager has first met with the person and obtained all of the following:
- (a) a criminal record check for the person;
  - (b) character references in respect of the person;
  - (c) evidence that the person has complied with the Province’s immunization and tuberculosis control programs.

**8 Section 56 is amended**

- (a) *by renumbering the section as section 56 (1), and*
- (b) *by adding the following subsection:*
- (2) A licensee must ensure that the policies and procedures referred to in subsection (1) are implemented by employees.

**9 Section 1 of Schedule H is amended by repealing the definition of “emergency restraint” and substituting the following:**

“emergency restraint”, which means a restraint that is necessary to protect the child or others from imminent serious physical harm that is not approved and documented in a child’s care plan; .

**SCHEDULE 2**

**1 Section 2.1 of the Community Care and Assisted Living Regulation, B.C. Reg. 217/2004, is repealed and the following substituted:**

**Prescribed provinces and territories**

- 2.1** The following provinces and territories of Canada are prescribed for the purposes of section 11 (2) (b) (i) [*powers of medical health officer*] of the Act:
- (a) Alberta;
  - (b) Manitoba;
  - (c) New Brunswick;
  - (d) Newfoundland and Labrador;

- (e) Northwest Territories;
- (f) Nova Scotia;
- (g) Ontario;
- (h) Prince Edward Island;
- (i) Québec;
- (j) Saskatchewan;
- (k) Yukon.

### SCHEDULE 3

**1 Section 2 of the Residential Care Regulation, B.C. Reg. 96/2009, is amended**

**(a) by repealing subsection (1) and substituting the following:**

- (1) A prescribed residential program for the purpose of paragraph (b) of the definition of "care" in section 1 of the Act is Child and Youth Residential, being a program that
  - (a) provides a type of care set out in subsection (2) to a child or youth, or
  - (b) promotes or supports the behavioural, intellectual, physical or social development of a child or youth in a therapeutic residential setting, and

**(b) by repealing subsection (2) (b) and substituting the following:**

- (b) Mental Health, being residential care for persons who are in care primarily due to a mental disorder;
- (b.1) Substance Use, being residential care for persons who are in care primarily due to substance dependence; .

**2 Section 3 is repealed and the following substituted:**

**School residences exempted**

- 3 (1) In this section, "school" means any of the following:
  - (a) a school within the meaning of the *School Act*;
  - (b) a francophone school within the meaning of the *School Act*;
  - (c) an independent school within the meaning of the *Independent School Act*.
- (2) A residential facility is exempt from the Act if
  - (a) the facility is located wholly on property owned or controlled by a school, and
  - (b) the facility does not provide a type of care described in section 2 (1) (a) or (b).

**3 Section 9 is amended**

**(a) by repealing subsection (1) and substituting the following:**

(1) A licensee must not suspend, temporarily or permanently, operation of a community care facility unless the licensee has, at least one year before the suspension begins, given written notice to the following:

- (a) a medical health officer;
- (b) the persons in care;
- (c) the contact persons of the persons in care;
- (d) the parents or representatives of the persons in care. ,

**(b) by repealing subsection (2) (a) and substituting the following:**

(a) at least 120 days before the reduction, expansion or change begins, given written notice to the following:

- (i) a medical health officer;
- (ii) the persons in care;
- (iii) the contact persons of the persons in care;
- (iv) the parents or representatives of the persons in care, and , and

**(c) by repealing subsection (3) (a) and substituting the following:**

(a) either, at least 120 days before the sale, lease or transfer, given written notice to the following:

- (i) a medical health officer;
- (ii) the persons in care;
- (iii) the contact persons of the persons in care;
- (iv) the parents or representatives of the persons in care or been informed by a medical health officer that notice
- (v) need not be in writing, or
- (vi) may be given less than 120 days before the sale, lease or transfer, and .

**4 The following section is added to Division 1 of Part 3:**

**Helpline for Children**

**24.1** (1) In this section, "Helpline for Children" means the Helpline for Children operated by the Ministry of Children and Family Development.

(2) A licensee must

- (a) ensure that a person in care who is receiving a type of care described in section 2 (1) (a) or (b) is advised of the person's right to contact emergency services or the Helpline for Children,
- (b) provide the person with contact information for emergency services and the Helpline for Children, and
- (c) provide the person with access to reliable communications equipment to contact emergency services or the Helpline for Children in a private setting.

**5 Section 37 is amended**

(a) *in subsection (1) by striking out “the manager has obtained” and substituting “the manager has first obtained”, and*

(b) *by adding the following subsection:*

(3) Despite this section, a licensee may employ a person as a volunteer who does not provide care to persons or supervise persons if the licensee or manager has first met with the person and obtained all of the following:

- (a) a criminal record check for the person;
- (b) character references in respect of the person;
- (c) evidence that the person has complied with the Province’s immunization and tuberculosis control programs.

6 *Section 42 (1) (b) is repealed and the following substituted:*

(b) assist persons in care with the activities of daily living, including eating, moving about, dressing and grooming, bathing and other forms of personal hygiene, in a manner consistent with the health, safety and dignity of persons in care.

7 *Section 63 (3) (c) (iv) is amended by striking out “or nurse practitioner” and substituting “, nurse practitioner or dietitian”.*

8 *Section 74 (1) (a) is repealed and the following substituted:*

(a) if the restraint is necessary to protect the person in care or others from imminent serious physical harm, or .

9 *Section 78 is amended by adding the following subsection:*

(1.1) In addition to the requirements under subsection (1), a licensee must keep, for each person in care who receives a type of care described in section 2 (1) (a) or (b), a record that the information required to be provided under section 24.1 was provided to the person in care.

10 *Section 1 of Schedule D is amended by repealing the definition of “emergency restraint” and substituting the following:*

“emergency restraint” means any use of a restraint that is necessary to protect the person in care or others from imminent serious physical harm and is not agreed to under section 74 [when restraints may be used]; .

#### **SCHEDULE 4**

1 *Section 13 of the Child Care Licensing Regulation, B.C. Reg. 332/2007, is amended*

(a) *in subsection (3) by striking out “no one smokes” and substituting “no one smokes or uses tobacco, holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette”, and*

(b) *by adding the following subsection:*

(5) In this section:

“activated e-cigarette” has the same meaning as in the *Tobacco and Vapour Products Control Act*;

“e-cigarette” has the same meaning as in the *Tobacco and Vapour Products Control Act*;

“tobacco” has the same meaning as in the *Tobacco and Vapour Products Control Act*.

## SCHEDULE 5

*1 Section 23 of the Residential Care Regulation, B.C. Reg. 96/2009, is repealed and the following substituted:*

### Smoking and use of vapour products

23 (1) A licensee must ensure that

- (a) no one other than a person in care smokes or uses tobacco, holds lighted tobacco, uses an e-cigarette or holds an activated e-cigarette while on the premises of a community care facility,
- (b) employees do not smoke or use tobacco, use an e-cigarette or hold an activated e-cigarette while supervising persons in care, and
- (c) if necessary for the safety of the person in care, a person in care who is smoking or using tobacco, using an e-cigarette or holding an activated e-cigarette is supervised.

(2) In this section:

“activated e-cigarette” has the same meaning as in the *Tobacco and Vapour Products Control Act*;

“e-cigarette” has the same meaning as in the *Tobacco and Vapour Products Control Act*;

“tobacco” has the same meaning as in the *Tobacco and Vapour Products Control Act*.

**Chan-Kent, Marissa HLTH:EX**

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**From:** Lafrance, Martyn JAG:EX  
**Sent:** Wednesday, June 29, 2016 12:03 PM  
**To:** McCormick, Erika HLTH:EX  
**Subject:** FW: FOR APPROVAL: OIC - Community Care and Assisted Living Regulations  
**Attachments:** 1025420 OIC Pkg CCALRegulations June 14 2016.pdf

Erika, please apply MTLs e-sig to the attached OIC package and send it to the DMO. Thanks.

**Martyn Lafrance**

Chief of Staff to the Hon. Terry Lake

Minister of Health

T: 250-953-3547

E: Martyn.Lafrance@gov.bc.ca

**From:** Lafrance, Martyn HLTH:EX

**Sent:** Wednesday, June 29, 2016 11:32 AM

**To:** Lake, Terry HLTH:EX

**Cc:** O'Brien, Kellie HLTH:EX

**Subject:** FW: FOR APPROVAL: OIC - Community Care and Assisted Living Regulations

Minister, sending this to you again to see if you had a chance to review OIC package?

**Martyn Lafrance**

Chief of Staff to the Hon. Terry Lake

Minister of Health

T: 250-953-3547

E: Martyn.Lafrance@gov.bc.ca

**From:** Lafrance, Martyn HLTH:EX

**Sent:** Thursday, June 16, 2016 4:54 PM

**To:** Lake, Terry HLTH:EX

**Cc:** O'Brien, Kellie HLTH:EX

**Subject:** FOR APPROVAL: OIC - Community Care and Assisted Living Regulations

Minister, attached for your review and approval is an OIC package to amend the Child Care Licensing Regulation, the Community Care and Assisted Living Regulation, and the Residential Care Regulation. The purpose of the amendments is to increase flexibility, clarify various requirements, and modernize language. They were undertaken to meet s.13

s.13

The OIC package includes a Briefing Note, Cabinet summary information, Regulatory Criteria Checklist, Section Notes and Speaking Notes. Also attached is a summary table with information that identifies the genesis and / or rationale of each amendment.

A copy of the OIC package and summary table can be found on your iPad under Approval → Briefing Notes for Decision → OIC - Community Care and Assisted Living Regulations.

M/L

**Martyn Lafrance**

Chief of Staff to the Hon. Terry Lake

Minister of Health

T: 250-953-3547

E: Martyn.Lafrance@gov.bc.ca

**Chan-Kent, Marissa HLTH:EX**

---

**From:** Will, Jordan HLTH:EX  
**Sent:** Wednesday, June 29, 2016 12:25 PM  
**To:** McCormick, Erika HLTH:EX  
**Subject:** RE: Community Care and Assisted Living Regulations

Thanks Erika!

**JORDAN WILL**  
a/Manager, Executive Program Operations  
Office of the Deputy Minister  
Ministry of Health

P: 250.952.1908 | C: 250.217.3655 | [jordan.will@gov.bc.ca](mailto:jordan.will@gov.bc.ca)

---

**From:** McCormick, Erika HLTH:EX  
**Sent:** Wednesday, June 29, 2016 12:23 PM  
**To:** Will, Jordan HLTH:EX; Lafrance, Martyn HLTH:EX  
**Cc:** Godfrey, Debbie HLTH:EX; Stearn, Anne HLTH:EX; Lowe, Tracey HLTH:EX  
**Subject:** RE: Community Care and Assisted Living Regulations

Please see attached.

Thanks  
Erika

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**From:** Will, Jordan HLTH:EX  
**Sent:** Wednesday, June 29, 2016 12:02 PM  
**To:** Lafrance, Martyn HLTH:EX  
**Cc:** Godfrey, Debbie HLTH:EX; Stearn, Anne HLTH:EX; Lowe, Tracey HLTH:EX; McCormick, Erika HLTH:EX  
**Subject:** RE: Community Care and Assisted Living Regulations

Excellent. Thanks very much Martyn.

**JORDAN WILL**  
a/Manager, Executive Program Operations  
Office of the Deputy Minister  
Ministry of Health

P: 250.952.1908 | C: 250.217.3655 | [jordan.will@gov.bc.ca](mailto:jordan.will@gov.bc.ca)

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**Subject:** RE: Community Care and Assisted Living Regulations

Minister has approved. Erika will send through a signed copy shortly.

**Martyn Lafrance**  
Chief of Staff to the Hon. Terry Lake



Minister of Health  
T: [250-953-3547](tel:250-953-3547)  
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Hi Martyn,

I had meant to bring this up this morning on the call. This OIC should go to the July 14<sup>th</sup> Cabinet as we had missed the deadline for today's Cabinet session. This is so it can be implemented for the upcoming school year. Do you know if the Minister has been able to review and whether he has approved?

Let me know if there is anything else I can provide to help close the loop on this.

Thanks

**JORDAN WILL**  
a/Manager, Executive Program Operations  
Office of the Deputy Minister  
Ministry of Health

P: 250.952.1908 | C: 250.217.3655 | [jordan.will@gov.bc.ca](mailto:jordan.will@gov.bc.ca)

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**From:** Will, Jordan HLTH:EX  
**Sent:** Thursday, June 16, 2016 4:05 PM  
**To:** Lafrance, Martyn HLTH:EX  
**Cc:** Godfrey, Debbie HLTH:EX; Stearn, Anne HLTH:EX  
**Subject:** RE: Community Care and Assisted Living Regulations

Hi Martyn,

Staff have prepared the attached summary table with information from the Section Notes that should answer the questions below.

As noted on the package, this is planned for the June 29<sup>th</sup> Cabinet. The final signed version is due to CabOps today, June 16<sup>th</sup>. Apologies for the short turnaround. Would electronic signature be an option on this package?

Please let me know if you have any further questions.

**JORDAN WILL**

a/Manager, Executive Program Operations  
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Ministry of Health

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**From:** Lafrance, Martyn HLTH:EX  
**Sent:** Tuesday, June 14, 2016 3:13 PM  
**To:** Godfrey, Debbie HLTH:EX  
**Cc:** Will, Jordan HLTH:EX  
**Subject:** FW: Community Care and Assisted Living Regulations

Deb, contained in the Background section of Briefing Note for the attached OIC package, it mentions how amendments were undertaken to meet recommendations of various reports, strategies, HA concerns, etc. Prior to providing this to MTL, it would be helpful if we could identify in the Briefing Note where each amendment stemmed from – whether it was a report, strategy, HA concern, or combination.

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**From:** McCormick, Erika HLTH:EX  
**Sent:** Tuesday, June 14, 2016 2:59 PM  
**To:** Lafrance, Martyn HLTH:EX  
**Subject:** FW: Community Care and Assisted Living Regulations

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**From:** Skinner, Della HLTH:EX  
**Sent:** Tuesday, June 14, 2016 2:57 PM  
**To:** McCormick, Erika HLTH:EX  
**Subject:** Community Care and Assisted Living Regulations

Erika,

As per your request, attached is an electronic version of the OIC package for the amendments to the Child Care Licensing Regulation, the Community Care and Assisted Living Regulation and the Residential Care Regulation scheduled for the June 29, 2016 Cabinet meeting.

The package includes a Briefing Note for the Minister, the Cabinet summary information, Tagged Order, Regulatory Criteria Checklist, Section Notes and Speaking Notes.

Please let me know if you need anything else.

Regards,

***Della Skinner***

Legislative Policy Analyst

Legislation & Intergovernmental Relations

Partnership & Innovation Division

Ministry of Health

PO Box 9637 Stn Prov. Govt.

1515 Blanshard St.

Victoria, BC V8W 9P1

Please dial the 10 digit number: 250-952-1774

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## **Chan-Kent, Marissa HLTH:EX**

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Excellent. Thanks very much Martyn.

JORDAN WILL  
a/Manager, Executive Program Operations  
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Martyn Lafrance  
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**Subject:** RE: Community Care and Assisted Living Regulations

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**JORDAN WILL**

a/Manager, Executive Program Operations

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**Subject:** RE: Community Care and Assisted Living Regulations

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**From:** Skinner, Della HLTH:EX  
**Sent:** Tuesday, June 14, 2016 2:57 PM  
**To:** McCormick, Erika HLTH:EX  
**Subject:** Community Care and Assisted Living Regulations

Erika,

As per your request, attached is an electronic version of the OIC package for the amendments to the Child Care Licensing Regulation, the Community Care and Assisted Living Regulation and the Residential Care Regulation scheduled for the June 29, 2016 Cabinet meeting.

The package includes a Briefing Note for the Minister, the Cabinet summary information, Tagged Order, Regulatory Criteria Checklist, Section Notes and Speaking Notes.

Please let me know if you need anything else.

Regards,

**Della Skinner**  
Legislative Policy Analyst  
Legislation & Intergovernmental Relations  
Partnership & Innovation Division  
Ministry of Health  
PO Box 9637 Stn Prov. Govt.  
1515 Blanshard St.  
Victoria, BC V8W 9P1  
Please dial the 10 digit number: 250-952-1774

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**Chan-Kent, Marissa HLTH:EX**

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**From:** Docs Processing HLTH:EX  
**Sent:** Thursday, May 12, 2016 9:49 AM  
**To:** HLTH Ministers Office  
**Cc:** Will, Jordan HLTH:EX; Docs Processing HLTH:EX; Michell, Jennifer HLTH:EX; Stearn, Anne HLTH:EX  
**Subject:** MTL DBN - Child Care Licensing Regulation Outdoor Play Space Requirement - 1053854  
**Attachments:** 1053854 - Child Care Licensing Regulation Minimum Outdoor Play Space Requirements.docx

Hi all,

I have attached the DBN produced by HSD for MTL. It has been approved by Lynn Stevenson and through HSD. We would appreciate receiving a signed copy once the Minister has made a decision.

All the best,

**Kyle Falk-Varcoe**

Program Assistant | Executive Operations | DMO | Ministry of Health |  
1515 Blanshard Street, Victoria, BC, V8W 3C8 | Phone: 250.952.1040



**MINISTRY OF HEALTH  
DECISION BRIEFING NOTE**

**Chiff # 1053854**

**PREPARED FOR:** Honourable Terry Lake, Minister – **FOR DECISION**

**TITLE:** Child Care Licensing Regulation Outdoor Play Space Requirement

**PURPOSE:** Decision Needed – Provincial Child Care Council Recommendation Regarding Outdoor Play Space Requirements

**BACKGROUND:**

The Child Care Licensing Regulation (CCLR) has had an outdoor play space requirement of 7m<sup>2</sup> per child for many years. If a facility does not have sufficient space, a Medical Health Officer may grant an exemption so long as there is no increased risk to the health and safety of children. The space requirement itself and the exemption process have worked well for many years; however, the increasing cost of real estate has led to debate about whether the amount of space presently required is sustainable.

The CCLR is presently being updated in consultation with the Ministry of Children and Family Development (MCFD). In the fall of 2015, it was proposed that the minimum requirement for outdoor play space be reduced from 7m<sup>2</sup> to 6m<sup>2</sup> in order to address the issue of high land costs. At that time, proposed regulatory amendments were discussed by relevant Ministers and drafting continued following this direction.

**DISCUSSION:**

The Provincial Child Care Council (the Council) is an appointed membership to provide advice to the Minister for Children and Family Development on policies and programs that affect the affordability, quality, stability and accessibility of child care. s.13

s.13

s.13

s.13

s.13

Regulation drafting on the CCLR is now substantially completed and work has now begun to prepare the Order In Council (OIC) briefing package. The amendments presently include the reduction of outdoor play space from 7m<sup>2</sup> to 6m<sup>2</sup>.

**CONCLUSION:**  
s.13

**OPTIONS:**  
**Option One:** s.13

Pros: s.13

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Cons: s.13

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**Option Two:** s.13

Pros: s.13

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Cons: s.13

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**FINANCIAL IMPLICATIONS:**  
N/A

**RECOMMENDATION:**  
s.13

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Approved/Not Approved  
Terry Lake  
Minister of Health

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Date Signed

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<b>Program ADM/Division:</b>	Doug Hughes, ADM, Health Services Policy Division
<b>Telephone:</b>	250 952-1049
<b>Program Contact (for content):</b>	Sharon Stewart, Executive Director, Senior's Services
<b>Drafter:</b>	Dawn Williams, Program Advisor, Community Care Licensing
<b>Date:</b>	May 6, 2016

## **Chan-Kent, Marissa HLTH:EX**

---

**From:** Lafrance, Martyn JAG:EX  
**Sent:** Wednesday, June 29, 2016 12:01 PM  
**To:** Lake, Terry HLTH:EX  
**Cc:** O'Brien, Kellie HLTH:EX  
**Subject:** RE: FOR APPROVAL: OIC - Community Care and Assisted Living Regulations

Ok, will do. Thanks Minister.

**Martyn Lafrance**

Chief of Staff to the Hon. Terry Lake

Minister of Health

T: 250-953-3547

E: [Martyn.Lafrance@gov.bc.ca](mailto:Martyn.Lafrance@gov.bc.ca)

---

**From:** Lake, Terry HLTH:EX  
**Sent:** Wednesday, June 29, 2016 11:49 AM  
**To:** Lafrance, Martyn HLTH:EX  
**Cc:** O'Brien, Kellie HLTH:EX  
**Subject:** Re: FOR APPROVAL: OIC - Community Care and Assisted Living Regulations  
Ok to apply e signature.

Terry Lake DVM  
Minister of Health

On Jun 29, 2016, at 11:43 AM, Lafrance, Martyn HLTH:EX <[Martyn.Lafrance@gov.bc.ca](mailto:Martyn.Lafrance@gov.bc.ca)> wrote:

I went back through my emails and don't see anything from you giving approval, unless it was something you said verbally and I just missed it?

**Martyn Lafrance**

Chief of Staff to the Hon. Terry Lake

Minister of Health

T: 250-953-3547

E: [Martyn.Lafrance@gov.bc.ca](mailto:Martyn.Lafrance@gov.bc.ca)

---

**From:** Lake, Terry HLTH:EX  
**Sent:** Wednesday, June 29, 2016 11:38 AM  
**To:** Lafrance, Martyn HLTH:EX  
**Cc:** O'Brien, Kellie HLTH:EX  
**Subject:** Re: FOR APPROVAL: OIC - Community Care and Assisted Living Regulations

I was pretty sure I had approved this?

Sent from my BlackBerry 10 smartphone on the TELUS network.

---

**From:** Lafrance, Martyn HLTH:EX  
**Sent:** Wednesday, June 29, 2016 11:31 AM  
**To:** Lake, Terry HLTH:EX  
**Cc:** O'Brien, Kellie HLTH:EX  
**Subject:** FW: FOR APPROVAL: OIC - Community Care and Assisted Living Regulations  
Minister, sending this to you again to see if you had a chance to review OIC package?  
**Martyn Lafrance**  
Chief of Staff to the Hon. Terry Lake  
Minister of Health  
T: 250-953-3547

E: [Martyn.Lafrance@gov.bc.ca](mailto:Martyn.Lafrance@gov.bc.ca)

**From:** Lafrance, Martyn HLTH:EX

**Sent:** Thursday, June 16, 2016 4:54 PM

**To:** Lake, Terry HLTH:EX

**Cc:** O'Brien, Kellie HLTH:EX

**Subject:** FOR APPROVAL: OIC - Community Care and Assisted Living Regulations

Minister, attached for your review and approval is an OIC package to amend the Child Care Licensing Regulation, the Community Care and Assisted Living Regulation, and the Residential Care Regulation. The purpose of the amendments is to increase flexibility, clarify various requirements, and modernize language. They were undertaken to meet r<sup>s.13</sup>

s.13

s.13

The OIC package includes a Briefing Note, Cabinet summary information, Regulatory Criteria Checklist, Section Notes and Speaking Notes. Also attached is a summary table with information that identifies the genesis and / or rationale of each amendment. A copy of the OIC package and summary table can be found on your iPad under Approval → Briefing Notes for Decision → OIC - Community Care and Assisted Living Regulations.

M/L

**Martyn Lafrance**

Chief of Staff to the Hon. Terry Lake

Minister of Health

T: [250-953-3547](tel:250-953-3547)

E: [Martyn.Lafrance@gov.bc.ca](mailto:Martyn.Lafrance@gov.bc.ca)

**MINISTRY OF HEALTH**  
**ORDER IN COUNCIL BRIEFING NOTE**  
**ADDENDUM TO BRIEFING NOTE - JUNE 16, 2016**

**Cliff # 1025420**

**PREPARED FOR:** The Honourable Terry Lake, Minister – **FOR DECISION**

**SUBJECT:** Amendments to the Child Care Licensing Regulation, the Community Care and Assisted Living Regulation and, the Residential Care Regulation

**AUTHORITY:** *Community Care and Assisted Living Act, s. 34*

**PURPOSE:** Various amendments to increase flexibility clarify requirements and, modernize language.

<b>The proposed amendments to the Child Care Licensing Regulation will:</b>	<b>Amendments proposed by:</b>
<ul style="list-style-type: none"><li>• Clarify the age at which children may attend unlicensed programs for summer camps (6 years old) and for day camps (5 years old)</li></ul>	<ul style="list-style-type: none"><li>• Provincial Child Care Council requested an amendment to increase the minimum age at which children may attend unlicensed summer camps from 5 to 6 years old.</li></ul>
<ul style="list-style-type: none"><li>• Provide additional flexibility regarding the use of outdoor play space as well as reducing the play space requirements from 7 meters squared per child to 6 meters squared per child</li></ul>	<ul style="list-style-type: none"><li>• Amendment to the minimum outdoor play space was put forth after discussions between Minister of Health and Minister of Children and Family Development; recognizing that affordability of land is a significant issue for operators, especially in urban areas the minimum outdoor play space will be reduced from 7 to 6 meters squared per child, as long as the employee-to-child ratio is maintained and there is no increased risk to the health and safety of the children in care.</li><li>• To meet Government's commitment to increase day care spaces as well as provide flexibility for licensed operators, the requirements around the use of outdoor play space will be amended; more than one care program may now use the outdoor play space at the same time as long as they are the same types of care program categories and the minimum outdoor play space requirement is maintained.</li></ul>
<ul style="list-style-type: none"><li>• Clarify the use of terms related to types of care offered</li></ul>	<ul style="list-style-type: none"><li>• Housekeeping amendments: "during periods of school closure" to "on a day of school closure" to align with amended definition of "day of school closure"</li></ul>

<ul style="list-style-type: none"> <li>Remove the requirement of posting an original Early Childhood Educator certificate to allow posting of a copy of the certificate which has been validated through the Ministry of Children and Family Development's online validation system</li> </ul> <p>s.12,s.13</p>	<ul style="list-style-type: none"> <li>The Early Childhood Educator certificate demonstrates that a person is qualified to work as a certified early childhood educator (ECE). Health s.13</li> <li></li> <li>The requirement to post an original of an ECE certificate will be eliminated, and it will be permissible to post a copy of an ECE certificate that has been validated through the online validation system (for fraud prevention) via the Ministry of Children and Family Development's early childhood educator registry. s.12,s.13</li> <li></li> </ul>
<ul style="list-style-type: none"> <li>Provide clarity on phrases and descriptors that may not be used in naming or advertising programs that are not licensed</li> </ul>	<ul style="list-style-type: none"> <li>Ministry of Children and Family Development child care programs / child care resource and referral program, as well as Health Authority licensing program requested the amendment to eliminate public confusion on which programs were licensed or not.</li> <li>It will be specified that a person who does not hold a license must not imply, directly or indirectly, in any part of a title or advertising that the purpose of the program is to provide care that is regulated under the Act.</li> </ul>

<b>The proposed amendments to the Residential Care Regulation will:</b>	<b>Amendments proposed by:</b>
<ul style="list-style-type: none"> <li>Define Child and Youth Residential care as a prescribed residential program</li> </ul>	<ul style="list-style-type: none"> <li>s.12,s.13</li> </ul>
<ul style="list-style-type: none"> <li>Add a requirement that a licensee must advise a person in care of their right to contact emergency services and to provide access to the "Helpline for Children"</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>
<ul style="list-style-type: none"> <li>Define the term "school" and clarify when residences are exempted from requirements established under the Act</li> </ul>	
<ul style="list-style-type: none"> <li>Separate out Mental Health and Substance Use to distinguish them as two distinct types of care</li> </ul>	<ul style="list-style-type: none"> <li>s.12,s.13</li> </ul>
<ul style="list-style-type: none"> <li>Add a requirement that in addition to notifying the medical health officer, a licensee must also give notice of any change of operation to the persons in care, their contact persons, and parents or representatives</li> </ul>	<ul style="list-style-type: none"> <li>s.12,s.13</li> <li>The current provision will be expanded to require a licensee to provide sufficient prior written notice – not just to the medical health officer (as currently required) – but also to the persons in care, the contact persons of persons in care, and the parents or representatives of persons in care.</li> </ul>

<b>The proposed amendments common to both the Child Care Licensing Regulation and the Residential Care Regulation will:</b>	<b>Amendments proposed by:</b>
<ul style="list-style-type: none"> <li>Amend the definition of "emergency restraint" to clarify when the use of restraints is appropriate</li> </ul>	<ul style="list-style-type: none"> <li>s.12,s.13</li> </ul>
<ul style="list-style-type: none"> <li>Clarify the requirements for volunteers who are not providing care or supervision</li> </ul>	<ul style="list-style-type: none"> <li></li> <li></li> </ul>

<ul style="list-style-type: none"> <li>Update the language in the regulations to include the prohibition of vapour products (effective on the date that section 1 of the <i>Tobacco Control Amendment Act, 2015</i>, S.B.C. 2015, c. 11 is brought into force).</li> </ul>	<ul style="list-style-type: none"> <li>s.12,s.13</li> </ul>
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**ADM, Health Sector Planning & Innovation Division:** Heather Davidson **Tel:** 250-952-2569  
**Director, Legislation:** Katherine Thiessen-Wale **Tel:** 250-952-2283  
**Drafter:** Della Skinner  
**Date:** June 16, 2016  
**File Name with Path** s.15  
s.15



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# Community Care and Assisted Living Act

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Proposed Amendments to the Child Care  
Licensing and Residential Care Regulation  
CCST - October 26, 2015

# Proposed Regulatory Amendments

## ■ Child Care Licensing Regulation

- ❑ Reducing Barriers
- ❑ Broader Consultation Required
- ❑ Health and Safety
- ❑ Consistency

## ■ Residential Care Regulation

- ❑ Harmonize with Child Care Licensing Regulation changes
- ❑ Align with other Government legislative changes
- ❑ Health and Safety
- ❑ Consistency



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# Child Care Licensing Regulation

## **Reducing Barriers**

### Children:

- Allow kindergarten children to attend unlicensed day camps after the school year starts
- Allow kindergarten children to attend unlicensed summer camp after the school year has finished



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# Child Care Licensing Regulation

## **Reducing Barriers**

Staff:

- Remove training/resume requirement for volunteers
- Remove pre-employment medical clearance
- Remove duplicate reporting requirement for communicable disease outbreak



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# Child Care Licensing Regulation

## **Health and Safety**

- Addition of E-cigarettes to the smoking prohibitions
- Clearer definition of an emergency restraint
- Validation of staff training requirements



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# Child Care Licensing Regulation

## **Health and Safety**

s.12



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# Child Care Licensing Regulation

## **Consistency**

s.12



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# Child Care Licensing Regulation

## **Broader Consultation Required**

s.12





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# Child Care Licensing Regulation

## **Broader Consultation Required**

- Allow the mixing of groups of younger and older children in the outdoor play space.
  - ❑ Presently the maximum number of children per group is based on their age and developmental needs and does not allow for this maximum size to be exceeded or for the mixing of different age groups of children.
  - ❑ Some facilities may have more than the minimum outdoor space, however, without being able to mix the age groupings of children on the outdoor play space, facilities are unable to take advantage of that space.



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# Residential Care Regulation

## **Minor Amendments**

- Harmonize with Child Care Licensing Regulation changes
  - Remove training/resume requirement for volunteers
  - Remove duplicate reporting requirement for communicable disease outbreak
- Align with other Government legislative changes
  - E-cigarettes, Tobacco Control Act and Regulations



# Residential Care Regulation

## **Minor Amendments**

### ■ Health and Safety

- ❑ Emergency restraint clarification
- ❑ Expand the practitioners who may approve ongoing room tray service

### ■ Consistency

- ❑ Separate “Mental Health and Substance Use” into separate care types
- ❑ Clearly defining Child and Youth Residential Care

s.12

- ❑ Increase notification requirements for regarding facility closure or a major change in service delivery



s.22

Dear s.22 :

Thank you for your letter dated November 12, 2015, expressing concerns about the Child Care Licensing Regulation in relation to outdoor play space.

I appreciate your dedication to the physical and social development of the children attending the centre. I also recognize and commend the centre for being an inclusive and accessible facility.

As you know the Child Care Licensing Regulation (the Regulation) sets the health and safety requirements, staffing qualifications, and program standards for licensed child care facilities. The Regulation falls under the authority of the *Community Care and Assisted Living Act* (the Act).

Medical Health Officers (MHOs) are named as independent statutory decision makers under the Act, and may delegate their day to day responsibilities to licensing officers for decisions regarding community care facilities. Statutory decision makers must ensure that they exercise independent judgment in relation to the matter that they must decide upon and do so to ensure the health and safety of children in care. The MHO, or licensing officer, cannot be directed by other officials within his or her organization in the exercise of that statutory decision. Neither the Minister, nor the Ministry of Health, can make or override decisions made by the local MHO or licensing officer.

The Ministry is aware of some questions surrounding the Regulation and Standards of Practice for outdoor play spaces requirements and will be reviewing these areas in the near future. I encourage you to continue to work with Northern Health Community Care Licensing program to develop a suitable plan surrounding the use of the centre's outdoor play space.

In regards to your suggestion regarding 18 year olds being considered as staff through an exemption while taking Early Childhood Education courses, the decision to approve or deny an exemption is made at the local Health Authority level by the statutory decision maker. Exemptions are reviewed on a case by case basis and may only be approved if there is no increased risk to health or safety of the children.

Again, thank you for your letter. I appreciate the opportunity to respond.

Sincerely,

Terry Lake  
Minister

**MINISTRY OF HEALTH  
DECISION BRIEFING NOTE**

**Cliff # 1053854**

**PREPARED FOR:** Honourable Terry Lake, Minister – **FOR DECISION**

**TITLE:** Child Care Licensing Regulation Outdoor Play Space Requirement

**PURPOSE:** Decision Needed – Provincial Child Care Council Recommendation Regarding Outdoor Play Space Requirements

**BACKGROUND:**

The Child Care Licensing Regulation (CCLR) has had an outdoor play space requirement of 7m<sup>2</sup> per child for many years. If a facility does not have sufficient space, a Medical Health Officer may grant an exemption so long as there is no increased risk to the health and safety of children. The space requirement itself and the exemption process have worked well for many years; however, the increasing cost of real estate has led to debate about whether the amount of space presently required is sustainable.

The CCLR is presently being updated in consultation with the Ministry of Children and Family Development (MCFD). In the fall of 2015, it was proposed that the minimum requirement for outdoor play space be reduced from 7m<sup>2</sup> to 6m<sup>2</sup> in order to address the issue of high land costs. At that time, proposed regulatory amendments were discussed by relevant Ministers and drafting continued following this direction.

**DISCUSSION:**

The Provincial Child Care Council (the Council) is an appointed membership to provide advice to the Minister for Children and Family Development on policies and programs that affect the affordability, quality, stability and accessibility of child care.<sup>s.13</sup>

s.13

s.13

s.13

s.13

Regulation drafting on the CCLR is now substantially completed and work has now begun to prepare the Order In Council (OIC) briefing package. The amendments presently include the reduction of outdoor play space from 7m<sup>2</sup> to 6m<sup>2</sup>.

## CONCLUSION:

s.13

## OPTIONS:

### Option One: s.13

Pros: s.13

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Cons:

s.13

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### Option Two: s.13

Pros: s.13

Cons: s.13

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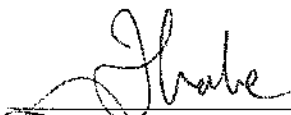
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## FINANCIAL IMPLICATIONS:

N/A

## RECOMMENDATION:

s.13



Approved/Not Approved  
Terry Lake  
Minister of Health



Date Signed

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Program ADM/Division:	Doug Hughes, ADM, Health Services Policy Division
Telephone:	250 952-1049
Program Contact (for content):	Sharon Stewart, Executive Director, Seniors Services
Drafter:	Dawn Williams, Program Advisor, Community Care Licensing
Date:	May 6, 2016

The proposed amendments to the Child Care Licensing Regulation will:

- Allow 5 year old children, who have started kindergarten, to attend unlicensed day camps (on pro d days and school vacations i.e., spring break). Allow 6 year old children, who have finished kindergarten, to attend unlicensed summer camps.
- Allow the same ages of children to play together outside in larger groups. Reduce the amount of outdoor play space needed per child.
- Specify that unlicensed child care may not call themselves any of the terms in the Child Care Licensing Regulation (i.e., family child care, preschool)

• s.13

•

The proposed amendments to the Residential Care Regulation will:

• s.13

- Ensure that children and youth in Residential Care Programs have access to emergency services and the “Helpline for Children”;
- Distinguish “Mental Health” and “Substance Use” as separate types of care;

• s.13

- Increase notification to families when there is of any change of operation (including closure);
- Increase flexibility for approval of ongoing in-room tray service in residential care.

The proposed amendments common to both the Child Care Licensing Regulation and the Residential Care Regulation will:

- Clarify when an “emergency restraint” may be used;
- Reduce barriers for volunteers;
- Add a prohibition on the use of smoking vapour products aligning with the new *Tobacco Control Amendment Act*.



**MINISTRY OF HEALTH  
DECISION BRIEFING NOTE**

**Cliff # 1027702**

**PREPARED FOR:** Doug Hughes, ADM, Health Services Division – **FOR DECISION**

**TITLE:** **Proposed Regulatory Amendments: Residential Care Regulation (RCR) and Child Care Licensing Regulation (CCLR)**

**PURPOSE:** Approval to proceed to draft amendments to the RCR and the CCLR

**BACKGROUND:**

The Ministry of Health Community Care Licensing program is responsible for the administration of the *Community Care and Assisted Living Act* and its Regulations. From time to time the regulations are updated to address minor housekeeping issues, to align with strategic priorities of Government, to keep current with issues in the care field, and to reduce regulatory burden, so long as health and safety of persons in care are not negatively impacted.

The following amendments are considered minor, have had consultation with relevant stakeholders (where required), and are proceeding now primarily to meet the commitments of the early years strategy/ombudsperson, and address the recent issues raised with child and youth residential care.

**DISCUSSION:**

The proposed RCR changes include:

- increasing transparency for residents and families by ensuring they are notified of planned facility closures and of substantial changes in the nature of services provided
- clarifying the definition of emergency restraint to simplify when restraints are appropriate
- adding dietitian to the health care professionals who can approve on-going room tray service. Presently, this is limited to medical practitioners and nurse practitioners
- clarifying the requirements for volunteers who are not providing care or supervision
- separating the categories of care for Mental Health and Substance Use to better reflect how services are delivered; and,
- more clearly defining Child and Youth Residential Care to address the broad range of services provided to this vulnerable population.

The proposed CCLR changes include:

- clarifying the age at which children may attend unlicensed school age programs;
- reducing the regulatory and cost burden to the health care system by removing the requirement for a pre-employment medical clearance letter (which would mirror the current RCR and is supported by Health Officers Council);
- clarifying the training requirements for volunteers who are not providing care or supervision services;
- removing the onerous requirement of posting an original Early Childhood Educator certificate to allow a copy which has been validated through the Ministry of Children and Family Development online validation system; and

s.13

**CONCLUSION:**

s.13

**OPTIONS:**

**Option 1: Approve proposed changes to the RCR and CCLR**

Pros: s.13

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Cons:

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**Option 2:** s.13

Pros: s.13

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Cons:

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**FINANCIAL IMPLICATIONS:**

N/A

**RECOMMENDATION:**

Option 1



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Approved/Not Approved  
Doug Hughes  
Assistant Deputy Minister, HSD

April 15, 2015

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Date Signed

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**Program ADM/Division:** Doug Hughes/Health Services Policy and Quality Assurance  
**Telephone:** (250) 952-1049  
**Program Contact (for content):** Sue Bedford Director, Community Care Licensing  
**Drafter:** Dawn Williams, Program Advisor, Community Care Licensing  
**Date:** March 25, 2015  
**File Name with Path:** s.15

s.15

**DRAFT MINISTRY OF HEALTH  
DECISION BRIEFING NOTE**

**Cliff # 1041408**

**PREPARED FOR:** Honourable Terry Lake, Minister – **FOR DECISION**

**TITLE:** **Proposed Amendments to Child Care Licensing Regulation (CCLR)  
Regarding Outdoor Play Space**

**PURPOSE:** Decision Needed Regarding Proposed Amendments

**BACKGROUND:**

The CCLR has had an outdoor play space requirement of 7m<sup>2</sup> for many years. This space requirement itself has not been problematic; however, there is presently a lack of clarity regarding whether this space requirement must be provided for the maximum licensed capacity of the facility or per group size (the same way indoor space is measured).

Given the lack of specificity provided in the current regulations, as well as the ongoing initiatives to promote healthy physical activity and to combat childhood obesity, some Health Authority (HA) Community Care Licensing Programs have interpreted this requirement to mean that the operator must provide 7m<sup>2</sup> for the maximum capacity of the facility rather than for the size of the group that will be using the outdoor play space at any given time. This interpretation is problematic, as land costs are high in urban areas, and typically not all of the children use the outdoor play space at the same time. s.13

s.13

**DISCUSSION:**

There is considerable flexibility built into the current regulations for licensees who cannot meet the outdoor play space requirements. Operators are able to apply for exemptions to the play space requirements and, if no on-site space is available, may make arrangements to use a nearby area, demonstrating the route that will be taken, and showing major physical features, such as roads and bodies of water that may present potential hazards. Operators are not permitted at this time to mix groups of children in the outdoor play space regardless of how much outdoor play space is available. A cross-Canada comparison of outdoor play space has been completed and is attached as appendix 1. Six provinces (including BC) require 7m<sup>2</sup> of outdoor play space; however, some provinces require less space.

s.13

**CONCLUSION:**

Providing greater clarity with respect to the play space will help operators who are struggling with the high cost of land, while ensuring that adequate outdoor space to promote healthy outdoor activity is provided for children.

**OPTIONS:**

**Option 1:**

s.13

Pros:

s.13

Cons:

**Option 2:**

Reduce the current 7m<sup>2</sup> measurement for outdoor play space to 6m<sup>2</sup> per child; clarify that the maximum 6m<sup>2</sup> is based on the largest group of children which will use the outdoor play space at any given time (typically 25 children, see appendix 3). Finally, in regulation, permit more than one *same age group* to use the outdoor play space at the same time, so long as the outdoor play space is large enough and staffing ratios are maintained. (Currently, in practice, some facilities choose to allow more than one same age group to share the outdoor play space; however, they are not in compliance with the CCLR.)


Pros:

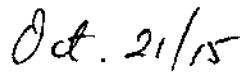
s.13

Cons:

**FINANCIAL IMPLICATIONS: N/A**

**RECOMMENDATION: Option 2**

  
Approved/Not Approved  
Terry Lake, Minister

  
Date Signed

Program ADM/Division:	Doug Hughes/Health Services Policy and Quality Assurance
Telephone:	(250) 952-1049
Program Contact (for content):	Sue Bedford Director, Community Care Licensing
Drafter:	Sue Bedford, Director, Community Care Licensing
Date:	October 15, 2015

### Summary of Outdoor Play Space Requirements Across Canada

Province/Territory	Required Square Metres per Child	Other provisions
British Columbia	7 m <sup>2</sup>	None
Saskatchewan	7 m <sup>2</sup>	None
Manitoba	7 m <sup>2</sup>	Must accommodate the greater of 50 per cent of the number of licensed spaces or 55 m <sup>2</sup>
Nova Scotia	7 m <sup>2</sup>	Must be large enough to accommodate the largest age group of children, other than infants;  If any infants are enrolled in a full-day program, there must be a separate outdoor play space with 7 m <sup>2</sup> per number of infants who regularly attend the program
PEI	7 m <sup>2</sup>	
NFLD	7 m <sup>2</sup>	If a centre accommodates children birth to 24 months, outdoor play space shall be physically separated from the outdoor play space used by any other age group at that centre.
Ontario	5.6 m <sup>2</sup>	Based on licenced capacity
NWT	5 m <sup>2</sup>	None
Yukon	5 m <sup>2</sup>	It is not necessary that required outdoor playground space be provided for every child in the program, however, at no time may the operator allow the number of children using the space to exceed the limit provided for
Nunavut	5 m <sup>2</sup>	None
New Brunswick	4.5 m <sup>2</sup>	Must provide a minimum of four and one half (4.5) square metres (48 square feet) per child to accommodate fifty per cent (50%) of the centre's approved capacity
Alberta	2 m <sup>2</sup> for each child under 19 months  4.5 m <sup>2</sup> for each child over 19 months	Must accommodate at least 50% of the licensed capacity at the required level.

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## Outdoor Play Space based on 100 group day care (30 months to school age) children

The current BC model requires 7m<sup>2</sup> of outdoor play space for each child in care based on the maximum licensed capacity and is not a common interpretation of Section 16 of the CCLR.

Operators are not permitted at this time, allow similar age groups of children to use the outdoor play space at the same time regardless of how much outdoor play space is present.

700 m<sup>2</sup> or 7,595 ft<sup>2</sup>

The Ontario model is 5.6 m<sup>2</sup> for each child in care for maximum licensed capacity.

All children are able to share the outdoor play space at the same time.

560 m<sup>2</sup> or 6,028 ft<sup>2</sup>

### Appendix 3

#### Child Care Licensing Regulation: Group Child Care

Care program Type/Age	Maximum group size	Children per group	Ratio of employees to children in each group
Group Child Care (Under 36 Months)	12, with a separate area designated for each group	≤ 4	One infant and toddler educator
		5 – 8	One infant and toddler educator and one other educator
		9 – 12	One infant and toddler educator, one other educator and one assistant
Group Child Care (30 Months to School Age)	25, with not more than 2 children younger than 36 months old in a single group	≤ 8	One educator
		9 – 16	One educator and one assistant
		17 – 25	One educator and 2 assistants