Lisa Musielewicz *Legislative Service Commission*

Sub. H.B. 383

126th General Assembly
(As Reported by H. Health)

Reps. Fessler, Schaffer, J. McGregor, Seitz, Reidelbach, Chandler, Barrett, Yuko

BILL SUMMARY

Day-care licensing

- Specifies that the prohibition in current law against operating a child day-care center or type A family day-care home without a license applies and must be enforced by the Ohio Department of Job and Family Services (ODJFS) regardless of the manner in which a day-care provider represents itself to the public.

- Requires ODJFS to adopt rules pertaining to the investigation and inspection of child care providers suspected of being in violation of the requirement that providers be licensed as child day-care centers or type A family day-care homes.

- Requires ODJFS, at the conclusion of an inspection and if requested by the day-care provider, to give a verbal explanation to the provider of any violations found during the inspection.

- Requires ODJFS, except when there is a finding of the presence of an immediate and serious threat to the health and safety of children, to offer a licensee an opportunity to dispute any findings in a written inspection report and to conduct the dispute resolution process in accordance with rules it adopts.

- Requires a licensee to display a corrected report of inspection in place of the original whenever ODJFS issues a corrected report.

- Requires ODJFS to maintain statistics and prepare an annual report regarding the individuals who conduct inspections and investigations of licensees and providers suspected of being in violation of the requirement

that providers be licensed as child day-care centers or type A family day-care homes.

- Reorganizes the provisions of existing law that specify ODJFS' authority to impose licensing sanctions and specifies that these sanctions can be imposed on provisional licensees.

Sanctions

- Establishes that ODJFS may, in accordance with the Ohio Administrative Procedure Act, impose the following additional sanctions: (1) suspend a license, (2) impose a fine ranging from $50 to $1,000 per citation of noncompliance, (3) issue an order for the submission of a plan of correction, or (4) issue an order requiring all persons involved in the provision of child care at a center or type A home to undergo license suspension.

- Requires ODJFS to take into consideration the scope and severity of the violation, presence or absence of an immediate and serious threat to the health and safety of children, and the history of compliance or noncompliance with previously imposed sanctions before imposing a sanction or determining a fine.

- Requires that any fines collected be deposited into the Child Care Enforcement Fund created by the bill and be used in the same manner as the federal funds received under the Child Care Block Grant Act.

- Specifies that if ODJFS revokes a license or refuses to renew a license, the revocation or refusal applies to "a person, firm, organization, institution, or agency" that was subject to the action during a two-year period that begins on the date that ODJFS issues the final order of revocation or refusal to renew unless the party appeals ODJFS' final order to a court.

- Specifies that if the order described above is appealed, the two-year period of prohibition on reissuance of a license begins on the date the appeals process is exhausted.

Public information

- Requires ODJFS to establish and maintain a web site and list on it the name and address of each licensee for which ODJFS has denied issuance of a license, refused to renew a license, or revoked a license.

- Requires ODJFS to remove as soon as practicable the name and address information described above if a licensee successfully appeals the imposition of a sanction.

- Requires ODJFS to maintain a toll-free telephone number for purposes of accepting complaints regarding licensed providers and providers suspected of being in violation of the requirement that providers be licensed and for purposes of offering consumer information on child day-care.

- Specifies the circumstances under which ODJFS must conduct an on-site investigation of a complaint it receives.

- Prohibits ODJFS from making public the name or any other identifying information about a complainant unless the complainant gives ODJFS written consent to do so.

- Clarifies that a licensed day-care provider must notify the ODJFS Director when there is a change in the maximum number of children that may receive care (the license capacity) and that ODJFS must make a determination of whether the change in license capacity is appropriate.

Rules

- Prohibits the ODJFS Director from adopting rules that permit a day-care center, type A home, type B home, or in-home aide to perform a physical examination on a child without the consent of the child's parent or legal guardian.

- Prohibits the ODJFS Director from adopting rules regarding immunization requirements for children cared for in day-care centers, type A homes, type B homes, or being cared for by in-home aides from being inconsistent with the laws governing immunization requirements for children in elementary and high schools.

- Requires rules the ODJFS Director must adopt regarding reference checks for day-care center administrators to specify procedures to be followed in obtaining a signed statement from an applicant for employment regarding whether the applicant has been the administrator of a center or type A home that ceased to operate because its license was revoked while the applicant was the administrator.

- Eliminates the ODJFS Director's authority to adopt child day-care rules on matters not expressly described in statute.

- Increases to every five years (from every seven years) the frequency with which the ODJFS Director is required to review all child day-care rules.

Public children services agencies

- Requires each public children services agency to file with ODJFS a copy of the agency's "memorandum of understanding," which details the procedures to be used by officials who deal with cases of child abuse and neglect, requires the agency to review the memorandum at least once every five years, and requires the agency to provide to the public on request a copy of the memorandum.

Effective date

- Delays the effective date of the bill's provisions for one year.

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CONTENT AND OPERATION

Background

(R.C. 5104.01, 5104.011, and 5104.02)

There are several different types of child day-care providers in Ohio, including child day-care centers, type A family day-care homes, and type B family day-care homes.

Child day-care centers

A child day-care center is any place in which child day-care is provided for 13 or more children at one time or a place that is not the permanent residence of the licensee or administrator in which child day-care is provided for seven to twelve children at one time.[1] In general, no one may operate a child day-care

[1] *"Child day-care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the 24-hour day in a place or residence other than a child's own home (Ohio Revised Code section 5104.01(K) (not in the bill)).*

center without obtaining a license from the Director of Job and Family Services. (R.C. §§ 5104.01(L) (*not in the bill*) and 5104.02.)

Type A family day-care home

A type A family day-care home is the permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time or for four to twelve children at one time if four or more of the children cared for at one time are under age two. As is the case with child day-care centers, a person wishing to operate a type A home must obtain a license from the Director of Job and Family Services.

Type B family day-care home

A type B family day-care home is the permanent residence of the provider in which child day-care is provided for fewer than seven children at one time and in which no more than three of the children are under age two. A type B family day-care home is not required to be licensed or certified unless it participates in the publicly funded child day-care program administered by the Ohio Department of Job and Family Services (ODJFS). County departments of job and family services are responsible for the certification of type B homes that provide publicly funded child day-care.

Prohibition against operating a child day-care center or type A home without a license

(R.C. 5104.02)

Current law

With certain exceptions, under current law no person or government entity is permitted to operate, establish, manage, conduct, or maintain a child day-care center or type A home without a license from ODJFS.

"Publicly funded child day-care" means administering to the needs of infants, toddlers, preschool children, and school children under age 13 during any part of the 24-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including Child Care Block Grant Act funds, distributed by the Department of Job and Family Services (R.C. 5104.01(JJ)--not in the bill).

"Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person. (R.C. 5104.01(A) (not in the bill).)

The bill

The bill specifies that the prohibition against operating a day-care center or type A home without a license applies and must be enforced by ODJFS, regardless of the manner in which the day-care provider represents itself to the public. For example, a type B home that cares for more children than authorized is no longer a type B home; instead, it is operating as an unlicensed type A home, regardless of whether it continues to represent itself as a type B home.

Inspections and investigations of licensed and unlicensed child care providers

Rules

(R.C. 5104.011(A)(10) and (F)(10))

Current law. Under current law, ODJFS must establish procedures for investigating, inspecting, and licensing child day-care centers and type A family day-care homes.

The bill. The bill maintains the current requirement but also requires ODJFS to adopt rules in accordance with the Ohio Administrative Procedure Act (R.C. Chapter 119.) pertaining to procedures for conducting inspections and investigations of applicants, licensed centers, licensed type A homes, and child care providers suspected of being in violation of the requirement that the provider be licensed as a child day-care center or type A family day-care home.

Explanations following inspections and investigations

(R.C. 5104.04(B)(1)(a))

Current law. Under current law, ODJFS must inspect a child day-care center or type A family day-care home at least twice during every 12-month period of operation of the center or home. ODJFS must inspect a part-time center or part-time type A home at least once during every 12-month period of operation. At least one inspection must be unannounced and all inspections may be unannounced.

Existing law also requires ODJFS to provide a written inspection report to a licensed center or type A home within a reasonable time after each inspection. The licensee is required to display all written reports of inspections conducted during the current licensing period in a conspicuous place in the center or home.

The bill. The bill maintains all of the requirements described above and adds three other requirements: (1) ODJFS must provide, at the conclusion of an inspection and if requested by the provider, a verbal explanation to the provider of

any violations of the law governing child care providers (R.C. Chapter 5104.) and the rules adopted under that law found during the inspection, and (2) ODJFS must, except when there is a finding of the presence of an immediate and serious threat to the health and safety of children in the care of the licensee, offer the licensee an opportunity to dispute any of the findings in the written report, and (3) if ODJFS at any time issues a corrected report of inspection, the licensee must replace the incorrect report with the corrected report.

Dispute resolution process

(R.C. 5104.04(B)(1)(a))

With respect to the second additional requirement described in "***Explanations following inspections and investigations***," above, the bill requires that all requests from licensees to dispute inspection findings be reviewed by two ODJFS employees. The bill also requires ODJFS to conduct the dispute resolution process in accordance with rules adopted under the Ohio Administrative Procedure Act including rules that establish timelines for making requests to dispute inspection findings and for responding to the requests.

Statistics ODJFS must maintain

(R.C. 5104.044)

The bill requires ODJFS to maintain statistics regarding the individuals who conduct inspections and investigations. The statistics must identify the number of inspections and investigations conducted by each individual, the reasons for which the inspections and investigations were initiated, and the findings from the inspections and investigations.

The bill also requires ODJFS to prepare an annual report on the statistics maintained. A copy of a report[2] must be provided to the Speaker of the House and the Senate President.

[2] *The bill does not specify what is meant by "a report."*

Sanctions

(R.C. 5104.03(F) and 5104.04(C), (D), (E), (F), and (G) (current law); R.C. 5104.041 and 5104.043 (the bill))

Current law

Licensed providers. Current law requires ODJFS, when a licensed child day-care center or type A family day-care home is determined to be out of compliance with the laws and rules governing child care providers, to notify the licensee in writing regarding the nature of the violation, what must be done to correct the violation, and by what date the correction must be made. If the correction is not made by the date established by ODJFS, ODJFS is permitted to commence an action under the Ohio Administrative Procedure Act to revoke the license.

Current law also authorizes ODJFS to revoke or refuse to renew a license to operate a center or type A home if a center or type A home is out of compliance with the law or rules governing child care providers. It also permits ODJFS to deny or revoke a license, or refuse to renew a license, if an applicant for a license knowingly makes a false statement on an application, does not comply with the law or rules governing child care providers, or has pleaded guilty or been convicted of certain offenses. ODJFS' ability to impose these sanctions is subject to the Ohio Administrative Procedure Act, which provides that no adjudication order of an agency is valid unless an opportunity for a hearing was given prior to the issuance of the order.[3]

If the ODJFS Director revokes a license or refuses to renew a license, current law prohibits the Director from issuing a license to the owner of that center or home within two years from the date of the revocation or refusal to renew. In addition, current law requires the investigation of an application for licensure or renewal of licensure to cease if the Director determines that the license of the owner has been revoked or renewal has been denied. Both of these actions must be done in accordance with the Ohio Administrative Procedure Act.

Unlicensed providers. Existing law requires that when ODJFS receives a complaint, is advised, or otherwise has any reason to believe that a child care provider is in violation of the requirement that the provider be licensed as a child day-care center or type A family day-care home, OJDFS must investigate the situation. ODJFS is permitted to inspect any areas that children have access to or

[3] *R.C. 119.06.*

areas that are necessary for the care of children during suspected hours of operation to determine whether the provider should be licensed.

If ODJFS determines that a provider is in violation of the requirement described above, ODJFS must notify the Attorney General, the prosecuting attorney of the county in which the provider is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the provider is operating without a license. On receipt of such a notification, the official must file a complaint in the common pleas court of the county in which the provider is located requesting that the court grant an injunction to prohibit the provider from operating the child care business.

Current law requires that the court grant the injunction on a showing that the respondent named in the complaint is operating a center or home without a license in violation of the requirement that the provider be licensed as a child day-care center or type A home.

Annual report on inspections of licensed and unlicensed providers. Under existing law, ODJFS must prepare an annual report on its inspections. The report must include the number of inspections, the number and types of violations found, and the steps taken to address the violations. ODJFS must file the report with the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House no later than January 1 of each year.

The bill

Sanctions ODJFS may impose. The bill maintains ODJFS' authority to impose the sanctions it is permitted to impose under current law, but reorganizes these provisions and also authorizes ODJFS to impose these sanctions on provisional licensees.[4]

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[4] *Current law provides that a provisional license is the initial license issued to a center or type A home. Current law also provides that a provisional license is valid for six months. The bill specifies that the provisional license can lose its validity if it is revoked before the end of the six-month period. Current law requires the ODJFS Director to investigate and inspect the center or home at least once during operation under the provisional license. Current law also requires the Director, if the Director determines after the investigation and inspection that the center or home meets the requirements of the day care laws and rules, to issue a regular license that is effective for two years from the date of issuance of the provisional license. The bill specifies that the license will lose its validity before the end of the two-year period if it is revoked earlier (R.C. 5104.03(C)). The bill also specifies that a renewed license loses its validity before the end of a two-year period of effectiveness if it is revoked earlier (R.C. 5104.03(D)).*

The bill further permits ODJFS to suspend a license, impose a fine, issue an order for the submission of a plan of correction, or issue an order requiring all persons involved in the provision of child care at the center or type A home to undergo license suspension. Consistent with current law, all sanction actions taken by ODJFS must be taken in accordance with the Ohio Administrative Procedure Act, except for the latter two regarding the issuance of orders.

Factors ODJFS must consider when imposing sanctions. In imposing sanctions, the bill requires ODJFS to take into consideration all of the following factors:

(1) The scope of the violation;

(2) The severity of the violation;

(3) The presence or absence of an immediate and serious threat to the health and safety of the children in the care of the licensee or applicant;

(4) Whether sanctions have previously been imposed against the licensee or applicant for the same or other violations;

(5) The licensee's or applicant's history of compliance or noncompliance with previously imposed sanctions for the same or other violations.

Amounts of fines imposed. The bill provides that the amount of a fine that ODJFS imposes for each citation of noncompliance cannot be less than $50 and not more than $1,000. ODJFS must determine the amount of the fine in accordance with the factors described above. The bill also requires that fines collected be deposited in the Child Care Enforcement Fund, a fund created by the bill. The bill requires that amounts deposited in this Fund must be used in the same manner as federal funds received under the Child Care Block Grant Act.[5]

Written notice of nature of violation--order of correction. The bill requires ODJFS, when it issues an order for the submission of a plan of correction (see "***Sanctions ODJFS may impose***," above), to give the licensee written notice of the nature of the violation, the action that must be taken to correct the violation, and the date by which the action must be taken. If the action is not taken by the date specified, the bill permits ODJFS to impose an additional sanction.

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[5] *The Child Care Development Block Grant Act of 1990, 42 U.S.C. 9801 et seq., is a federal law that provides funds distributed by ODJFS for providers of publicly funded child day-care to supplement federal, state, and local funds available for publicly funded child day-care and related programs (R.C. 5104.30 and 5104.301, both not in the bill).*

Content and length of training--order regarding license suspension. The bill requires ODJFS, when it issues an order requiring all persons involved in the provision of child care at the center or type A home to undergo license suspension (see "***Sanctions ODJFS may impose***," above), to specify the content and length of training that must be completed. At a minimum, ODJFS must order the completion of two hours of training.

Surrender of license or withdrawal of an application for licensure. The bill provides that the surrender of a center or type A home license to ODJFS or the withdrawal of an application for licensure by the owner or administrator of the center or home does not prohibit ODJFS from imposing a sanction specified above.

Two-year prohibition on reissuance of license. The bill changes the provision in current law that prohibits ODJFS, if it revokes a license or refuses to renew a license, from issuing a license to the owner of the center or home within a two-year period by providing (1) that this prohibition applies to "a person, firm, organization, institution, or agency" that was subject to the action during a two-year period, and (2) that the two-year period begins on the date that ODJFS issues the final order of revocation or refusal to renew unless the person, firm, organization, institution, or agency appeals ODJFS' final order to a court in accordance with the Ohio Administrative Procedure Act. If the order is appealed, the bill specifies that the two-year period begins on the date that the appeals process is exhausted.

The bill prohibits ODJFS from accepting an application for a license if it knows that a person, firm, organization, institution, or agency submitting an application is subject to a two-year period of ineligibility. The bill maintains the requirement in current law that requires ODJFS to cease its review of a licensure application if OJDFS determines that an applicant is subject to a two-year period of ineligibility. In either case, the bill specifies that ODJFS' action is not subject to appeal in accordance with the Ohio Administrative Procedure Act.

Unlicensed providers. The bill maintains current law with respect to ODJFS' ability to investigate and seek injunctions against providers suspected of being in violation of the requirement that the provider be licensed as a child day-care center or type A family day-care home.

Annual report on inspections of licensed and unlicensed providers. The bill maintains the requirement in current law that ODJFS prepare an annual report

on inspections conducted, but adds that the report must also include investigations conducted.[6]

Web site ODJFS must establish and maintain

(R.C. 5104.042)

The bill requires ODJFS to establish and maintain an internet web site and list on it the following information for each licensee for which ODJFS has denied issuance of a license, refused to renew a license, suspended a license, or revoked a license: (1) each name known to ODJFS under which the child day-care center or type A home is doing business, and (2) each address known to ODJFS at which the center or home is doing business.

If a licensee appeals the imposition of one of these sanctions and the appeal results in a finding that the sanction was not warranted, the bill requires ODJFS to remove as soon as practicable name and address information described above from the web site.

However, if ODJFS appeals a finding that the original sanction on a licensee was not warranted and the appeal results in a finding that the original sanction was not warranted, ODJFS must list, as soon as practicable, the information regarding the licensee specified above.

Complaint process and toll-free number ODJFS must administer

(R.C. 5104.14 and 5104.011(A)(12) and (F)(12))

Current law

Current law requires the ODJFS Director to adopt rules regarding procedures for receiving, recording, and responding to complaints about licensed centers and type A homes and child care providers allegedly in violation of the requirement that the provider be licensed as a child day-care center or type A family day-care home. Current law also requires that ODJFS adopt a standard requiring the inclusion of a toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation.

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[6] *Current law, maintained by the bill, refers to ODJFS' review of licensed centers and homes as "inspections" and its review of unlicensed centers and homes as "investigations."*

The bill

The bill instead requires ODJFS, in accordance with rules it adopts, to accept complaints regarding licensed child care providers and providers who are suspected of being in violation of the requirement that providers be licensed. Any person or government entity suspecting a violation of the day care laws or rules can submit to ODJFS a report of that suspicion or complaint.

The bill also requires ODJFS to maintain a toll-free telephone number for purposes of accepting complaints. ODJFS must use the number to make information on child day-care available to consumers.

With regard to ODJFS' response to complaints, the bill specifies that all of the following apply:

(1) If the complaint alleges that care is being provided without a license for more than ten children, ODJFS must conduct an on-site investigation.

(2) ODJFS must conduct an on-site investigation of at least every fifth complaint of an alleged violation received.

(3) For complaints other than those described in (1) and (2), above, ODJFS must send a letter to the provider that summarizes the complaint and requires the provider to send a letter to ODJFS that responds to the complaint. ODJFS must follow up on the complaint as it determines necessary to resolve it.

(4) ODJFS cannot make public the name or any other identifying information about a complainant unless the complainant gives ODJFS written consent to do so.

Notification of change in license capacity or administrator

(R.C. 5104.03(E))

Current law

Current law requires that the information that must be on a license or provisional license to operate a child day-care center or type A family day-care home are the name of the licensee, the name of the administrator, the address of the center or type A home, and the license capacity for each age category of children. It further specifies that the license capacity indicated on the license or provisional license is the maximum number of children in each age category that can be cared for in the center or home at one time. A licensed center or home must notify the ODJFS Director when the administrator of the center or home changes. The Director is required to amend the current license or provisional

license to reflect either a change in administrator if the administrator meets the requirements of the day care laws or rules, or a change in license capacity for any age category of children as determined by the Director.

The bill

The bill explicitly prohibits a license or provisional license holder from providing child care to more than the maximum number of children in each age category that can be cared for in the center or home at one time, as indicated by the license capacity specified on the license or provisional license. It also places an affirmative duty on a center or home to notify the Director when circumstances require a change in the license capacity. In addition, it requires the Director to amend the current license or provisional license of a provider to reflect a change in license capacity if the Director determines that the center or home meets the requirements of the day care laws and rules.

The bill also clarifies that the Director must amend the current license or provisional license to reflect a change in administrator if the Director determines that the administrator meets the requirements of the day care laws and rules.

Rulemaking authority

(R.C. 5104.011 and 5104.016)

Current law

Under current law, the ODJFS Director must adopt rules in accordance with the Ohio Administrative Procedure Act governing the operation of child day-care centers and type A family day-care homes and the certification of type B family day-care homes and in-home aides. Current law specifies a number of specific rules that must be adopted by the Director.[7] In addition, current law requires the Director to adopt rules regarding "any other procedures and standards necessary to carry out" the chapter governing child day-care providers.

The bill

The bill makes the following changes regarding the ODJFS Director's rulemaking authority.

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[7] *The current rules the Director has adopted on these topics are codified in Ohio Administrative Code §§ 5101:2-12 (for child day-care centers), 5101:2-13 (for type A family day-care homes), and 5101:2-14 (for type B family day-care homes).*

Inspections and investigations of unlicensed child care providers. As discussed previously (see "***Inspections and investigations of licensed and unlicensed child care providers***, ***Rules***"), current law requires the ODJFS Director to establish procedures for investigating, inspecting, and licensing child day-care centers and type A family day-care homes. The bill maintains this requirement but also specifically requires ODJFS to adopt rules in accordance with the Ohio Administrative Procedure Act pertaining to procedures for conducting inspections and investigations of applicants, licensed centers, licensed type A homes, and child care providers suspected of being in violation of the requirement that the provider be licensed as a child day-care center or type A home.

Complaint process. Current law requires the ODJFS Director to adopt rules regarding procedures for receiving, recording, and responding to complaints about centers and a standard requiring the inclusion of a toll-free telephone number on each center provisional license or license that any person can use to report a suspected violation of the day care statutes or rules. The bill requires the Director to adopt rules about child care providers suspected of being in violation of the requirement that the provider be licensed as a child day-care center or type A family day-care home. As previously discussed (see "***Complaint process and toll-free number***," above), the bill also requires ODJFS to maintain a toll-free telephone number for purposes of accepting complaints and specifies that ODJFS must use the number to make information on child day-care available to consumers.

Physical examinations and immunizations. Existing law requires the ODJFS Director to adopt rules regarding "admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations." The bill prohibits these rules from doing any of the following:

(1) Including a procedure that permits a center, type A home, type B home, or in-home aide to perform a physical examination on a child unless the center, type A home, type B home, or in-home aide has obtained the informed consent of the child's parent or legal guardian.

(2) Requiring a child to be immunized for rubeola, natural mumps, or natural chicken pox if the child has had the specified disease and presents a signed statement from the child's parent, guardian, or physician to that effect.

(3) Requiring a child to be immunized for any disease if the child presents a written statement of the child's parent or guardian in which the parent or guardian declines to have the child immunized for reasons of conscience, including religious convictions. However, the bill provides that a rule may provide that the ODJFS Director can specify that a child be denied admission to a center or home, or from receiving care from an in-home aide, if the Director of Health determines that a chicken pox epidemic[8] exists in the local population. Any such rule must specify that the denial of admission or provision of child care must cease when the Director of Health notifies the administrator of the center or home, or the in-home aide, that the epidemic no longer exists.

(4) Requiring a child to be immunized for a particular disease if the child's physician certifies in writing that immunization is medically contraindicated.

The restrictions on the rules that the ODJFS Director must adopt regarding immunizations are consistent with the exemptions to immunization for children in elementary and high school found in R.C. 3313.671(B) and (C).[9]

Reference checks of center administrators. Under current law, the ODJFS Director must adopt rules regarding procedures to be used by licensees for checking the references of potential center employees and procedures to be used by the Director for checking the references of applicants for licenses to operate centers. The bill adds that, for cases in which the licensee is not the administrator of the center, the rules must specify procedures to be followed in obtaining a signed statement from an applicant for employment as an administrator as to whether the applicant has been the administrator of a center or type A home that ceased to operate because its license was revoked while the applicant was the administrator.

Rulemaking authority for "any other procedures and standards necessary to carry out day-care laws". As previously discussed (see "***Rulemaking authority***, ***Current law***," above), the ODJFS Director must adopt a number of

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[8] *The bill defines "chicken pox epidemic" to mean the occurrence of cases of chicken pox in numbers greater than expected in the local population or for a particular period of time.*

[9] *Despite these exemptions, according to a representative of the Department of Health, immunization is a form of quarantine so a child who had not been immunized could be barred from being admitted to a day-care setting by the Department or a local board of health pursuant to the Department's authority under R.C. 3701.13. This section provides, in relevant part, that the Department has "supervision of all matters relating to the preservation of life and health of the people" and the "ultimate authority in matters of quarantine and isolation, which it may declare and enforce. . . ."*

specific rules regarding the operation of child day-care centers and type A family day-care homes and the certification of type B family day-care homes and in-home aides. In addition, current law requires the Director to adopt rules regarding "any other procedures and standards necessary to carry out" the law governing child day-care providers. The bill eliminates the requirement that the Director adopt "any other procedures and standards necessary to carry out" this law. The bill does not, however, change the Director's underlying authority to adopt rules governing the operation of child day-care centers and type A family day-care homes.

Review of rules

(R.C. 5104.011(K))

Current law

Under current law, the ODJFS Director must review all child day-care rules every seven years.

The bill

The bill increases the frequency with which the ODJFS Director must review all child day-care rules by requiring the Director to review these rules every five years.

Requirements for filing memorandum of understanding

(R.C. 2151.421)

Current law

Current law requires each public children services agency (PCSA) to prepare a "memorandum of understanding," a document that sets forth the procedures to be used by officials who deal with cases of child abuse and neglect.[10] Existing law specifies the contents of this memorandum and the officials who are required to sign it. Current law also permits a PCSA to participate in the execution of another kind of memorandum of understanding regarding the establishment of children's advocacy centers. If a PCSA chooses to execute this permissive memorandum, the contents of the permissive memorandum must be incorporated in the memorandum, described above, that a PCSA must prepare.

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[10] *A "public children services agency" is a county agency that provides services for children who are abused or neglected.*

The bill

The bill requires each PCSA to file with ODJFS a copy of the PCSA's mandatory memorandum of understanding. The bill also requires each PCSA to review the memorandum at least once every five years, make any necessary revisions, and file the revised memorandum with ODJFS. Further, the PCSA must provide to the public, on request, a copy of the PCSA's memorandum.

Conforming amendments

(R.C. 5104.10 and 5104.99)

Two sections of current law, R.C. 5104.10 and 5104.99, are included in the bill only for purposes of correcting statutory cross-references. These amendments are not substantive.

Delayed effective date

(Section 3)

The effective date of the bill's provisions is delayed until one year after the bill takes effect.

HISTORY

ACTION	DATE
Introduced	10-18-05
Reported, H. Health	05-18-06

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