

# **HUMAN SERVICES DEPARTMENT[441]**

## **Notice of Intended Action**

Pursuant to the authority of Iowa Code Section 237A, the Department of Human Services proposes to amend Chapter 110, “Child Development Homes,” Iowa Administrative Code.

These amendments update administrative rules on a number of requirements for Child Development Homes, as follows:

These amendments update the minimum requirements for first aid kits in Child Development Homes.

These amendments modify administrative rules to allow tamper-resistant electrical outlets to be used in addition to safety caps.

Fire safety rules indicate that combustible materials must be kept away from heating elements. Child Care Providers are held to a 3 foot requirement as recommended by the fire marshal. These amendments formally adopt the 3 foot requirement.

Iowa Code 237A.3A states the rules shall require a child development home to be located in a single-family residence that is owned, rented, or lease by the person or, for dual registrations, at least one of the persons who is named on the child development home's certificate of registration. These amendments append the aforementioned expectation by code.

Iowa Code 237A.5(2) “h” (2) states that, if within five years prior to date of application for registration or license under this chapter, for employment or residence in a child care facility or child care home, or for receipt of public funding for providing child care, a person subject to an evaluation has been found to have committed physical abuse, the person shall be prohibited from involvement with child care for a period of five years from the date of founded abuse. The current administrative rule specifically states founded ‘child’ abuse that was determined to be

physical abuse. The current verbage in the administrative rule excludes dependent adult abuse. These amendments modify the rules to include dependent adult abuse by removing the word “child”.

Finally, these amendments remove an outdated exception that applied to providers renewing a previously issued registration on or after December 2002. This transition time period has been in effect for 12 years and is no longer valid or needed.

Any interested person may make written comments on the proposed amendments on or before February 24, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 5<sup>th</sup> Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by email to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A, 217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code Section 237A.

The following amendments are proposed.

ITEM 1. Amend paragraph **110.5 (1) “c”** as follows:

**c.** A first-aid kit shall be available and easily accessible whenever children are in the child development home, in the outdoor play area, in vehicles used to transport children, and on field trips. The kit shall be sufficient to address first aid related to minor injury or trauma and shall be stored in an area inaccessible to children. The kit shall, at a minimum, include adhesive bandages, antiseptic cleaning materials, tweezers, and disposable plastic gloves.

ITEM 2. Amend paragraph **110.5 (1) “e”** as follows:

e. Electrical wiring shall be maintained with all accessible electrical outlets safely capped or be a tamper-resistant electrical outlet. ~~and~~ Electrical cords shall be properly used. Improper use includes running cords under rugs, over hooks, through door openings, or other use that has been known to be hazardous.

ITEM 3. Amend paragraph **110.5 (1) “f”** as follows:

f. Combustible materials shall be kept away from furnaces, stoves, water heaters, and gas dryers by a minimum of three feet.

ITEM 4. Add a new paragraph **110.5 (1) “y”** as follows:

y. The child development home shall be located in a single-family residence that is owned, rented, or lease by the person or, for dual registrations, at least one of the persons who is named on the child development home’s certificate of registration.

ITEM 5. Amend subparagraph **110.7 (3) “f” (1)** as follows:

(1) A person with the following conviction or founded abuse report is prohibited from involvement with child care for five years from the date of the conviction or founded abuse report:

1. Conviction of a controlled substance offense under Iowa Code chapter 124.
2. Founded ~~child~~ abuse that was determined to be physical abuse.

ITEM 6. Rescind and reserve rule **441--110.13.**

## Information on Proposed Rules

Name of Program Specialist Ryan Page	Telephone Number	E-mail Address
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<p>1. Give a brief summary of the rule changes:</p> <p>Item 1: Minimal modifications have been made to specify minimum requirements for first aid kits</p> <p>Item 2: This is a modification to allow tamper-resistant electrical outlets in addition to safety caps.</p> <p>Item 3: Rules indicate that combustible materials must be kept away from heating elements. Providers are held to a 3 foot requirement as recommended by the fire marshal. This rule modification solidifies this requirement.</p> <p>Item 4: Iowa Code 237A.3A states the rules shall require a child development home to be located in a single-family residence that is owned, rented, or lease by the person or, for dual registrations, at least one of the persons who is named on the child development home's certificate of registration. Our rules do not currently require this however, providers are held to this expectation by code.</p> <p>Item 5: Iowa Code 237A.5(2) "h" (2) state if within five years prior to date of application for registration or license under this chapter, for employment or residence in a child care facility or child care home, or for receipt of public funding for providing child care, a person subject to an evaluation has been found to have committed physical abuse, the person shall be prohibited from involvement with child care for a period of five years from the date of founded abuse. The current rule specifically states founded 'child" abuse that was determined to be physical abuse. This excludes dependent adult abuse. This modification removes the word "child".</p> <p>Item 6: This was a transition exception to apply to providers renewing a previously issued registration on or after December 2002. This transition time period has been in effect for 12 years and is no longer valid or needed. It is recommended that it is removed from the chapter.</p>
<p>2. What is the reason for the Department to request these changes?</p> <p>Item 1: The rules are vague in nature and state that first aid kits must be "sufficient" to address first aid related injuries. This allows the rules to be clear in bare minimum requirements that are expected.</p> <p>Item 2: Many providers are already using these. This rule change brings rules current to new items available to providers.</p> <p>Item 3: The rules are not clear on footage expectations for combustible materials. Fire marshal recommends 3 feet.</p> <p>Item 4: Iowa Code requires rules to require this.</p> <p>Item 5: To be accurate in what Iowa code requires</p> <p>Item 6: It is no longer needed.</p>
<p>3. What will be the effect of the rule adoption? (who, what, when, how)?</p> <p>Item 1: Child care providers are already held to this requirement. It allows rules to be more clear for providers.</p> <p>Item 2: Providers are already utilizing these and we allow them to be in compliance. This brings rules current to allowable expectations.</p> <p>Item 3: Providers are already held to this requirement.</p> <p>Item 4: Providers are already held to this requirement</p> <p>Item 5: Providers are already held to this requirement as the department runs dependent adult abuse record checks.</p> <p>Item 6: No effect.</p>

<p>4. Is the change mandated by State or Federal Law? (Cite the authorizing state and federal statutes and federal regulations)</p> <p>Item 1: No  Item 2: No  Item 3: No  Item 4: 237A.3A states the rules shall require a child development home to be located in a single-family residence that is owned, rented, or lease by the person or, for dual registrations, at least one of the persons who is named on the child development home's certificate of registration.  Item 5: No  Item 6: No</p>
<p>5. Will anyone be affected by this rule change? If yes who will be affected and will it be to the person(s) benefit or detriment?</p> <p>Item 1: Providers are already held to the expectation that this rule will require  Item 2: Providers already utilize tamper resistant outlets. This brings rules current to this allowance.  Item 3: Providers are already held to the expectation that this rule will require  Item 4: Providers are already held to this expectation that this rule will require  Item 5: Providers are already held to this expectation that this modification will require.  Item 6: No effect</p>
<p>6. What are the potential benefits of this rule?</p> <p>Item 1: Providers will have a clear understanding of expectations for first aid kits  Item 2: This brings rules current to allowing tamper resistant outlets  Item 3: This solidifies the fire marshal recommendation of 3 feet minimum in keeping combustibles away from heating elements  Item 4: The rule will be in compliance with Iowa Code  Item 5: The rule will be in compliance with Iowa Code.  Item 6: No effect</p>
<p>7. What are the potential costs, to the regulated community or the State of Iowa as a whole, of this rule?</p> <p>Item 1: There is no known cost associated.  Item 2: There is no known cost associated.  Item 3: There is no known cost associated.  Item 4: There is no known cost associated.  Item 5: There is no known cost associated.  Item 6: There is no known cost associated.</p>
<p>8. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code Sections apply?</p> <p>Item 1: No  Item 2: No  Item 3: No  Item 4: No  Item 5: No  Item 6: No</p>

9. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?

Item 1: This area is already regulated.

Item 2: This area is already regulated.

Item 3: This area is already regulated.

Item 4: This area is already regulated.

Item 5: This area is already regulated.

Item 6: This area is already regulated.

10. Does this rule contain a waiver provision? If not, why?

Item 1: These rules do not contain waiver provisions. Individuals may request an exception pursuant to the Department General Rule 441 IAC 1.8 on Exception to Policy.

Item 2: These rules do not contain waiver provisions. Individuals may request an exception pursuant to the Department General Rule 441 IAC 1.8 on Exception to Policy.

Item 3: These rules do not contain waiver provisions. Individuals may request an exception pursuant to the Department General Rule 441 IAC 1.8 on Exception to Policy.

Item 4: These rules do not contain waiver provisions. Individuals may request an exception pursuant to the Department General Rule 441 IAC 1.8 on Exception to Policy.

Item 5: These rules do not contain waiver provisions. Individuals may request an exception pursuant to the Department General Rule 441 IAC 1.8 on Exception to Policy.

Item 6: These rules do not contain waiver provisions. Individuals may request an exception pursuant to the Department General Rule 441 IAC 1.8 on Exception to Policy.

11. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee)

Item 1: There is no known impact

Item 2: There is no known impact

Item 3: There is no known impact

Item 4: There is no known impact

Item 5: There is no known impact

Item 6: There is no known impact

# ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 12/29/14

**Agency:** Human Services  
**IAC citation:** 441 IAC  
**Agency contact:** Ryan Page

**Summary of the rule:** Specifies minimum requirements for first aid kits; allows tamper-resistant electrical outlets to also meet electrical safety requirements; specifies that combustible materials must be kept away from heat sources by a minimum of 3 feet; states in rules what is already required in code regarding the location of a child development home; modifies the reasons for mandatory time limited prohibition to state abuse rather than child abuse so that the rules comply with Iowa Code; and an obsolete rule is eliminated.

*Fill in this box if the impact meets these criteria:*

No fiscal impact to the state.

Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.

Fiscal impact cannot be determined.

**Brief explanation:** These rule changes are all technical corrections and have no impact on caseloads or the cost of children served. Therefore there is no fiscal impact to the state.

*Fill in the form below if the impact does not fit the criteria above:*

Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

**Assumptions:**

**Describe how estimates were derived:**

**Estimated Impact to the State by Fiscal Year**

	Year 1 (FY )	Year 2 (FY )
<b>Revenue by each source:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL REVENUE</b>	_____	_____
<b>Expenditures:</b>		
General fund	_____	_____
Federal funds	_____	_____
Other (specify):	_____	_____
<b>TOTAL EXPENDITURES</b>	_____	_____
<b>NET IMPACT</b>	_____	_____

This rule is required by state law or federal mandate.  
*Please identify the state or federal law:*  
 Item 4 is required by Iowa Code 237A.3A.  
 Item 5 brings the rules in compliance with Iowa Code 237A.5(2).h.2.

Funding has been provided for the rule change.  
*Please identify the amount provided and the funding source*

Funding has not been provided for the rule.  
*Please explain how the agency will pay for the rule change:*

***Fiscal impact to persons affected by the rule:***

None anticipated.

***Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):***

None anticipated.

Agency representative preparing estimate: Kathy Blume  
 Telephone number: (515) 281-4196