SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114
Statutory Authority: 1976 Code Sections 43-1-80 and 20-7-2980 et seq.

DSS Regulation No. 114-528. Definitions and Procedures.

DSS Regulation No. 114-528. A. Definitions. Terms used in South Carolina Regulations, Chapter 114, Article 5, Part A, shall be all definitions cited in Section 20-7-2700 et seq., Code of Laws of South Carolina in addition to the definitions which follow:

DSS Regulation No. 114-528. A.(1) Emergency Person. An individual not regularly employed by the facility who is immediately available to serve as staff in the facility during emergency situations.

DSS Regulation No. 114-528. A.(2) Judicially Determined. A criminal conviction in a court of law which is either the result of a jury trial, guilty plea, plea of no contest or forfeiture of bond in cases of misdemeanor or a determination of child abuse or neglect in any court of competent jurisdiction.

DSS Regulation No. 114-528. A.(3) Original and Renewal Application for a License/Approval. Completed Department of Social Services (DSS) application form, completed DSS inspection study, completed health and fire inspection reports, current criminal history background records checks, written policies, and other related information deemed necessary by the Department to make a determination of issuance or non-issuance of a license/approval.

DSS Regulation No. 114-528. A.(4) Overnight Care. Care provided to children by the facilities defined in these regulations from 1:00 a.m. to 6:00 a.m.

DSS Regulation No. 114-528. A.(5) Parent. Biological or legal guardian of the child or individual or agency with physical or legal custody.

DSS Regulation No. 114-528. A.(6) Staff. Full-time and part-time administrative, program, service and volunteer personnel, including emergency persons.

DSS Regulation No. 114-528. A.(7) Supervision. Care provided to an individual child or group of children. Adequate supervision requires awareness of and responsibility for the ongoing activity of each child, knowledge of activity requirements and children's needs and accountability for their care. Adequate supervision also requires the operator and/or staff being near and having ready access to children in order to intervene when needed.

DSS Regulation No. 114-528. A.(8) Training. Participation during the calendar year in workshops, conferences, support groups, educational or provider associations, formal schooling, in-service training or planned learning opportunities provided by a child day care operator, director, other staff, or consultants. Training must be in subject areas related to child care, child development, and/or early childhood education and nutrition. Training for operators may also be in areas related to day care program administration and must include alternatives to corporal punishment.

DSS Regulation No. 114-528. A.(9) Volunteer. An individual whose services are involved in the operation of the family day care home without compensation on a daily, weekly or monthly basis, including parents, students, student teachers and other persons all of whom are subject to compliance with the same applicable regulations as paid family day care home staff.

DSS Regulation No. 114-528. B. Procedures for Pre-Application Consultation and Original Registration.

DSS Regulation No. 114-528. B.(1) A potential operator of a family day care home may secure information about the registration or licensure process by contacting the State or local county Department of Social Services.

DSS Regulation No. 114-528. B.(2) The family day care home applicant shall have a working, listed telephone in the facility

and shall make the telephone number available to parent(s)/guardian(s) of children enrolled in the facility and to Department staff.

DSS Regulation No. 114-528. B.(3) The Department representative shall provide the applicant with the required number of forms, a copy of the current Suggested Standards and Regulations for Family Day Care Homes, a copy of Section 20-7-2700 et seq., Code of Laws of South Carolina (Child Day Care Statute) and a copy of sections of the Children's Code which are related to child abuse and neglect, with an explanation of procedures and information required by the Department.

DSS Regulation No. 114-528. B.(4) The applicant shall complete the following:

DSS Regulation No. 114-528. B.(4)(a) Complete and sign the required number of application forms;

DSS Regulation No. 114-528. B.(4)(b) Obtain and submit to Department staff current (less than one year old) South Carolina State Law Enforcement Division (SLED) criminal history background records checks for himself/herself, substitute caregiver(s), emergency person(s) and volunteer(s).

DSS Regulation No. 114-528. B.(4)(c) Provide written references with names, addresses and telephone numbers of at least three persons unrelated to the applicant who shall be contacted by the Department as references;

DSS Regulation No. 114-528. B.(4)(d) Read the Suggested Standards For Family Day Care Homes;

DSS Regulation No. 114-528. B.(4)(e) Furnish or review with parent(s)/guardian(s) of each child to be enrolled in the facility, a copy of the Suggested Standards;

DSS Regulation No. 114-528. B.(4)(f) Secure a signed statement from each parent/guardian verifying that they have reviewed the Suggested Standards;

DSS Regulation No. 114-528. B.(4)(g) Send required copies of completed and signed applications, required information regarding references and all signed statements from parent(s)/guardian(s) to Department staff;

DSS Regulation No. 114-528. B.(5) Department staff shall review the registration materials and shall complete the following:

DSS Regulation No. 114-528. B.(5)(a) Contact by telephone within thirty days of receipt, the persons listed as references by the applicant and document their comments;

DSS Regulation No. 114-528. B.(5)(b) Issue regular registration if all regulatory requirements have been met;

DSS Regulation No. 114-528. B.(5)(c) Issue provisional registration when regulations can and will be met within a reasonable time and the deviations do not seriously threaten the health or safety of the children; or

DSS Regulation No. 114-528. B.(5)(d) Deny the application for registration.

DSS Regulation No. 114-528. B.(6) If registration is issued, Department staff shall mail the registration directly to the potential operator.

DSS Regulation No. 114-528. B.(7) If Department staff proposes to deny an application for registration, the applicant shall be given written notice by certified mail indicating the reason(s) for the proposed action and the right of the applicant to appeal the decision in accordance with Department fair hearing regulations.

DSS Regulation No. 114-528. B.(8) If no written appeal is made, the application shall be denied as of the termination of the thirty day period.

DSS Regulation No. 114-528. C. Procedures for Registration Renewal.

DSS Regulation No. 114-528. C.(1) Department staff shall advise the family day care home operator in writing of the time and requirements for renewal one hundred and twenty days prior to the expiration date of the current registration.

DSS Regulation No. 114-528. C.(2) The operator shall complete the following:

DSS Regulation No. 114-528. C.(2)(a) Complete and sign the required number of application forms;

DSS Regulation No. 114-528. C.(2)(b) Provide the name(s) of additional person(s) to be contacted as references if original references are no longer active;

DSS Regulation No. 114-528. C.(2)(c) Re-read the Suggested Standards for Family Day Care Homes;

DSS Regulation No. 114-528. C.(2)(d) Furnish a copy of or review with parent(s)/guardian(s) of any new children enrolled in the facility the Suggested Standards;

DSS Regulation No. 114-528. C.(2)(e) Secure a signed statement from each parent/guardian of new enrollees verifying he/she has reviewed a copy of the Suggested Standards;

DSS Regulation No. 114-528. C.(2)(f) Send the required copies of the completed and signed application, the names of any person(s) to be contacted as new references, and signed statements from parent(s)/guardian(s) to the Department.

DSS Regulation No. 114-528. C.(3) Department staff shall review the registration renewal materials and shall complete the following:

DSS Regulation No. 114-528. C.(3)(a) Contact by telephone within thirty days of receipt of references the person(s) listed as new references and document their comments;

DSS Regulation No. 114-528. C.(3)(b) Issue regular registration if all regulatory requirements have been met;

DSS Regulation No. 114-528. C.(3)(c) Issue provisional registration when regulations can and will be met within a reasonable time and the deviations do not seriously threaten the health and safety of the children; or

DSS Regulation No. 114-528. C.(3)(d) Deny the application for registration renewal.

DSS Regulation No. 114-528. C.(4) If the registration is renewed, Department staff shall mail the registration directly to the operator.

DSS Regulation No. 114-528. C.(5) If the application for registration renewal is denied, Department staff shall give the operator written notice by certified mail indicating the reason(s) for the proposed action and the right of the operator to appeal the decision in accordance with Department fair hearing regulations.

DSS Regulation No. 114-528. C.(6) If no written appeal is made, the Department shall deny the application for registration renewal at the termination of the thirty day period.

DSS Regulation No. 114-528. D. Provisions of the Registration.

DSS Regulation No. 114-528. D.(1) Registration issued by the Department to a family day care home operator shall be valid for one year from date of issuance, unless withdrawn by the Department or voluntarily surrendered by the operator. If the facility ceases operation, the registration shall be returned to the Department within thirty days of facility closure.

DSS Regulation No. 114-528. D.(2) The current registration shall be displayed in a prominent location in the home during the hours of operation.

DSS Regulation No. 114-528. D.(3) The number of children present in the facility at any given time shall not exceed the number specified on the registration.

DSS Regulation No. 114-528. D.(4) A change in location shall automatically void the registration.

DSS Regulation No. 114-528. D.(5) The Department shall withdraw registration if the health and safety of the children is determined to be at risk or in threat of harm; if the operator cares for more children than the number stated on the registration; or if the operator fails to comply with the registration procedures defined in statute and these regulations.

DSS Regulation No. 114-528. D.(6) An operator whose registration has been withdrawn by the Department shall be given written notice by certified mail. The notice shall contain the reason(s) for the proposed action and shall inform the operator of the right to appeal the decision to the Commissioner in writing within thirty calendar days after receipt of the notice.

DSS Regulation No. 114-528. D.(7) If no written appeal is made, the Department shall withdraw the registration at the termination of the thirty day period.

DSS Regulation No. 114-528. D.(8) The application for original registration or registration renewal may be denied or the

registration may be withdrawn by the Department, if the operator, any staff including substitute caregiver(s), volunteer(s) and emergency person(s) or household member(s), abuses or neglects any child as defined in Section 20-7-490, B, South Carolina Code of Laws, 1976, as amended.

DSS Regulation No. 114-528. E. Procedures for Securing An Original License/Approval.

DSS Regulation No. 114-528. E.(1) For the purpose of applying for a license/approval, the family day care home applicant shall comply with the South Carolina Department of Social Services Suggested Standards for Family Day Care Homes.

DSS Regulation No. 114-528. E.(2) An application for a family day care home license/approval must be completed on appropriate Department forms and shall be signed by the applicant. Department staff shall provide the applicant with the required number of forms, a copy of the current Suggested Standards and Regulations for Family Day Care Homes, a copy of Section 20-7-2700 et seq., Code of Laws of South Carolina (Child Day Care Statute), and a copy of sections of the Children's Code related to child abuse and neglect, with an explanation of procedures and information required by the Department.

DSS Regulation No. 114-528. E.(3) Department staff shall request in writing that health and fire officials make inspections of the facility.

DSS Regulation No. 114-528. E.(4) After giving the applicant prior notice, Department staff shall make an on-site visit to the proposed family day care home to determine compliance with appropriate regulations by completing a licensing/approval study.

DSS Regulation No. 114-528. E.(5) Health and fire officials shall inspect the facility to determine compliance with appropriate regulations and shall put their results in writing on the appropriate forms.

DSS Regulation No. 114-528. E.(6) Department staff shall review the findings of the complete application and shall take one of the following actions:

DSS Regulation No. 114-528. E.(6)(a) Issue a regular license/regular approval if all provisions of the regulations, suggested standards and statute for the operation of a licensed/approved family day care home have been met;

DSS Regulation No. 114-528. E.(6)(b) Issue a provisional license/provisional approval if deficiencies have been cited which would not place children at risk or in threat of harm; or

DSS Regulation No. 114-528. E.(6)(c) Deny the application for a license/approval if cited deficiencies would place children at risk or in threat of harm.

DSS Regulation No. 114-528. E.(7) Failure of Department staff to approve or deny a complete application within ninety days shall result in the granting of a provisional license/provisional approval.

DSS Regulation No. 114-528. E.(8) If a regular license/regular approval is issued, Department staff shall mail the license/approval directly to the operator.

DSS Regulation No. 114-528. E.(9) The license/approval shall state the name of the operator, the address and type of child day care facility, the date on which the license/approval was issued and will expire, and the maximum number of children to be present in the facility at any one time.

DSS Regulation No. 114-528. E.(10) Department staff shall notify the operator as follows if a provisional license/provisional approval is issued or an application for a license/approval is denied:

DSS Regulation No. 114-528. E.(10)(a) If a provisional license/provisional approval is issued, Department staff shall notify the operator in writing of deficiencies to be corrected. The deficiencies shall be cited on the back of the provisional license/approval and shall include the appropriate regulation number(s);

DSS Regulation No. 114-528. E.(10)(b) If Department staff proposes to deny an application for a license/approval, the applicant shall be given written notice by certified mail indicating the reason(s) for the proposed action and the right of the applicant to request an appeal within thirty days after the receipt of the notice of denial.

DSS Regulation No. 114-528. E.(11) If a facility is found to be in operation after the Department has denied the application for a license/approval and the administrative appeal/review procedure has been completed, Department staff shall request that the circuit solicitor initiate injunctive action.

DSS Regulation No. 114-528. F. Procedures for License/Approval Renewal.

DSS Regulation No. 114-528. F.(1) For the purpose of applying for renewal of a license/approval, the family day care home operator shall comply with the South Carolina Department of Social Services Suggested Standards for Family Day Care Homes.

DSS Regulation No. 114-528. F.(2) One hundred and twenty days prior to the expiration date of the current license/approval, Department staff shall notify the operator in writing of the time and requirements for renewal and request health and fire inspections.

DSS Regulation No. 114-528. F.(3) The same Department actions cited above in E.(2) through (11), are applicable to the renewal process, except that Department staff shall initiate the license/approval renewal process one hundred and twenty days in advance.

DSS Regulation No. 114-528. G. Provisions of the License/Approval.

DSS Regulation No. 114-528. G.(1) A regular license/regular approval issued by the Department to the family day care home shall be valid for two years from date of issuance, unless revoked by the Department or voluntarily surrendered by the operator; provided, however, that a change in location, ownership or sponsorship of the facility shall automatically void the license/approval.

DSS Regulation No. 114-528. G.(2) A provisional license/provisional approval shall be issued for a period within which the deficiencies must be corrected and within the conditions stated in statute.

DSS Regulation No. 114-528. G.(3) A provisional license/provisional approval shall be amended to a regular license/regular approval when all deficiencies have been verified as corrected.

DSS Regulation No. 114-528. G.(4) An application for a license/approval shall be denied or the license/approval revoked by the Department if the operator, any staff, including substitute caregiver(s) emergency person(s), volunteer(s) or household member(s), abuses or neglects any child as defined in Section 20-7-490, B, South Carolina Code of Laws, 1976, as amended.

DSS Regulation No. 114-528. G.(5) No family day care home shall have present at any time children in excess of the number for which it is licensed/approved.

DSS Regulation No. 114-528. H. Inspections, Consultation and Reporting for Registered and Licensed/Approved Family Day Care Homes.

DSS Regulation No. 114-528. H.(1) Upon receipt of a regulatory complaint, Department staff shall conduct an unannounced visit to the family day care home to investigate the complaint. If the complaint is written, Department staff shall provide a copy to the operator upon request.

DSS Regulation No. 114-528. H.(2) The operator may request consultative visits of Department staff or other qualified

persons regarding suggested standards, regulations or other related matters. Department staff shall provide technical assistance to an operator as requested.

DSS Regulation No. 114-528. H.(3) The family day care home operator shall display the current registration or license/approval in a prominent location in the family day care home.

DSS Regulation No. 114-528. H.(4) The operator shall report to the Department when an occurrence takes place which may affect the status of the registration or license/approval.

DSS Regulation No. 114-528. H.(5) The operator shall notify Department staff of a change in location and/or major alternations to the building prior to the occurrence.

DSS Regulation No. 114-528. H.(6) The operator shall report the following information to Department staff:

DSS Regulation No. 114-528. H.(6)(a) Accidents or injuries requiring professional medical treatment of any child or staff person while at the family day care home, or any death;

DSS Regulation No. 114-528. H.(6)(b) Major damage to the facility;

DSS Regulation No. 114-528. H.(6)(c) Charges or convictions of crimes against the operator, household member(s), substitute caregiver(s), emergency person(s) or volunteer(s);

DSS Regulation No. 114-528. H.(6)(d) Any child protective services reports involving the operator, household member(s), substitute caregiver(s), emergency person(s) or volunteer(s).

DSS Regulation No. 114-528. H.(7) The operator shall cooperate with Department staff, law enforcement and other involved agencies during an investigation of child abuse or neglect. Cooperation shall include but not be limited to the following:

DSS Regulation No. 114-528. H.(7)(a) Participate in an informational conference(s) with Child Protective and Preventive Services staff;

DSS Regulation No. 114-528. H.(7)(b) Release records of children and staff as requested;

DSS Regulation No. 114-528. H.(7)(c) Allow access to facility premises for inspection upon request.