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ENV. HEALTH SERVICES SECTION

Mecklenburg County  
Health Department

August 27, 1999

To: Sheila Nichols  
Regional Env. Health Specialist

From: Dennis Salmen  
Program Chief

Re: Child Day Care rule clarifications

Sheila:

I'd like to request clarification and reiteration on a number of issues addressed by the Child Day Care regulations and various interpretation memos issued over the last 1-2 years by the Children's Environmental Health Branch. We have run into a number of situations in day cares in Mecklenburg County where compliance is not being met or is inconsistent. We want to ensure that our program is interpreting the rules correctly and in a consistent manner.

1. Care rooms- lavatories for food service/preparation

Section .2808(Food Service)(c) states that "employees preparing or serving food shall wash their hands in accordance with 15A NCAC 18A .2828 ..." which states, among other things, that employees must wash their hands after "... handling food". Section .2810(Specifications For Kitchens)(b)(4) states that a "separate lavatory for handwashing is required in food preparation and food service areas". Our interpretation of these rules, taken together, is that if you handle or serve food in any way including, but not limited to, a teacher serving food (e.g. juices, peanut butter and jelly sandwiches) in the care room, a lavatory for handwashing must be in the room.

We have run into a number of situations where no such sink is present in the care room and food is being served either by teachers or kitchen staff. This has occurred frequently in rooms where diaper changing is also occurring, specifically in facilities licensed for more than 12 children. We have advised these facilities that other than the serving of water and individual, pre-packaged snacks (most commonly found in afterschool programs), any food service requires a separate handwash for this purpose. Would this also apply to a situation where individual plates are served to children from a cart rolled from the kitchen? It would seem that it would be required since simple handling of bottles, even with already prepared formula sealed in the bottle, necessitates the installation of a separate food service lavatory in an infant area.

2. Infant Care areas- lavatories for diaper changing staff

We have a number of facilities, licensed for more than 12 children, where the diaper changing handwash sink is either not located in the diaper changing area or is set a height from 12-30" off the floor. Section .2819(Diapering and Diaper Changing Facilities)(d) states that "Each diaper changing area in a child care center shall include a handwash lavatory for caregivers..."



We have interpreted this to mean that if the lavatory is not in the room itself (or the designated diaper changing area), it doesn't exist. We have had centers, which do not have lavatories in the room, propose to use a nearby (e.g. 3 feet away) bathroom handwash, even going as far as to propose removing the bathroom door and toilets. We have advised these facilities that this is not an acceptable lavatory. If the walls themselves are removed, thereby eliminating a Building Code "separate room" designation, we would consider such a lavatory designated for diaper changing.

Ed Norman's memo to Tom Stich, dated May 15, 1998 seems to support this position. However, in reference to that memo, we are uncomfortable with the notion that these "...determinations....must be made on a case by case basis....". Either the handwash is located in the diaper changing room/area or it is not. Since .2819(a) requires operators to designate the diapering area, the existence of the handwash therein is not subject to interpretation.

### 3. Handwash lavatories-height

Section .2818(Lavatories)(a) states that "Lavatories shall be sized and located to comply with the requirements of these Rules". We have identified a large number of centers which do not have lavatories sized for adult caregivers of average height. Ed Norman's memo, dated January 9, 1998, specifies that these lavatories, particularly those serving diaper changing areas, must be "designed for adult caregivers". This problem is further complicated by the fact that while children can use diaper changing area lavatories for handwashing, they cannot use food service handwashing lavatories.

Therefore, where we are identifying lavatories which require caregiver access, but are located at an obvious child height, we are requiring operators to either raise these sinks to a standard institutional height or install an additional sink. When we have inquired on what minimum height would be appropriate, I have heard local and State environmental health specialists (EHS) respond that we should "apply our best professional judgement" to these situations. We believe that operators would like a quantitative number and we are proposing to establish a policy of a minimum acceptable height. "Applying your best professional" judgement can lead to inconsistent application of regulations and our observations of what we've viewed so far shows considerable variation in what the "professionals" think the right height should be.

### 4. Drainboard length- cumulative with counter top length

Section .2812(Manual Cleaning and Sanitizing)(c) states "For child care ...licensed after April 15, 1998, drainboards or countertop space shall be no less than 24" long". An additional reference to "drainboards or countertop space of adequate size" is made in paragraph (b) of this same section. We have not interpreted this wording to be cumulative. For example, if you have 16" of drainboard and 8" of countertop, this is not 24" of "countertop or drainboard"- It's a combination of both which we do not interpret the regulations to allow. A review of the March 1998 Regional(R) Children's Health EHS VideoConference notes implied that this 'combination formula' was/is acceptable to some REHSs' to attain the 24" length. We would like an official YES or NO to this additive position.

We also have a concern with the installation of these drainboards over counter tops. The last 2 we saw removed in a day care revealed extreme dirt/filth buildup on the counters. Both Section .2809(5)..."crevices that obstruct cleaning..." and Section .2811(c)..."Nonfood-contact surfaces of equipment shall be cleaned as often as necessary to keep equipment free of accumulation of dust, dirt..." would seem to prohibit placement of drainboards over counters without sufficient space underneath to clean the counters.

#### 4b. Drainboards, countertops of adequate size

Reference is made in several places in the regulations to "adequate size" for countertops or drainboards. In Section .2810 (Specifications For Kitchens)(a)(1) and (b)(2)(A), the size needed for multi-use utensils is addressed by Section .2812(c). However, when multi-use utensils are not used (see .2810 (Specifications For Kitchens)(b)(2)(B),



(b)(2)(C)), a minimum size is not specified or defined. Additionally, mechanical sanitizing under Section .2813(b) uses the **adequate** notation, again without direction on size.

This has become a problem both with review of plans for new facilities (regardless of whether it's in a new or renovated building) and in several large day care homes where multi-use utensils are not used. I am aware of the Branch's stated definition that adequate means "of sufficient size, volume, or technical specifications to effectively accommodate and support the planned, current, or projected work loads for a specified operational area (source: **Child Care Centers: Inspection and Plan Review manual May 26-28, 1999, Asheville location**). However, this can vary from one inspection to the next, depending on the items put in service in the day care. It can give an impression to operators that we play "musical chairs" (i.e. switching drainboards in and out as their pot, pan, etc. size changes). The Branch needs to establish a minimum size...period.

5. Can Wash Hot Water- 130/140<sup>o</sup>

Section .2815(Water Supply)(e) states that "Hot water heating equipment shall provide hot water at a minimum temperature of 130<sup>o</sup> at the point of use..." while paragraph (d) in the same section refers to "Hot and cold water... accessible...other areas where water is required for cleaning...". Section .2830(Solid Waste)(b) states that "Cleaning facilities shall include combination faucet, hot and cold running water...". We have interpreted this to require at least 130<sup>o</sup> hot water at the can wash. Comments from the March 1998 Regional Children's Health EHS VideoConference indicated the same. **Please verify that this is correct.** Some can washes at facilities in our County do not have hot water plumbed to these areas. Also, if these areas are accessible to children **and** hot water can be readily discharged by turning faucets, we have interpreted this to be access to hot water, a violation of Section .2815(Water Supply)(e). Of course, if no hot water is plumbed to an existing can wash, it would not be an access violation.

6. Child Access To Kitchens- Supervised Activity

Section .2808(Food Service)(f) states " Children attending child care centers shall not have access to the kitchen except for emergencies or when **participating in a supervised activity**". What's a supervised activity? Can it be an activity, under supervision, in another room other than the kitchen? In attempting to apply this rule, we are aware of the additional requirement of Section .2815(Water Supply)(e) and David Brown's memo dated February 24, 1999 stating that "a physical barrier must restrict a child's access to the kitchen". How can the phrase/situation of "participating in a supervised activity" ever be applicable (or allowable) if hot access must also be denied by physical separation? **Please verify and/or define:**

- **Kitchen non-access must always be by a physical barrier and under what conditions.**
- **What is a 'supervised' activity and are there limitation on where its held?**

We have had one day care operator to contend that walking by a kitchen doorway, with no door or barricade, only occurs when a child is escorted to a nearby bathroom. This escorting is her "supervised activity". Incidentally, no hazardous materials (e.g. cleaners, etc.) are kept stored in the kitchen.

7. Sanitizing with quaternary ammonium products-contact time

In reference to sanitizing food or non-food contact surfaces such as changing tables, counters, etc., Section .2812(Manual Cleaning and Sanitizing)(f) states "When spray-on or wipe-on sanitizers are used, **the chemical strengths shall be those required for sanitizing multi-use eating and drinking utensils**". Section (e)(4)(D), which refers to **utensil sanitizing and appropriate chemical strengths** when chemical sanitizers are used, states "Immersion for **at least two minutes....containing at least 200 ppm of quaternary ammonium products....**".



I have continued to hear reference to **10 minute contact times** for quat products being required. The rules do not require this, even if the use directions on the product recommend this contact time. Additionally, I'm concerned about increasing the strength of **any** chemical sanitizer, beyond established standards, if its hazard potential to children is not known. For example, I have heard reference, from EHSs, to increasing wipe-on chlorine sanitizing strength to 200+ ppm when an enteric illness occurs in a day care. Particularly, I have been told this is a strong recommendation in diaper changing areas.

I'd like to see either some empirical data or reference to some reputable/qualified/accredited entity before I make this recommendation. If the required minimum 100 ppm, used during normal operations, is considered inadequate to control pathogens (which are certainly present even when an illness is not occurring), then why haven't we increased the required strength to 200 ppm? **Please establish the Branch's position on both these items.**

#### 8. Bag lunch refrigeration

Some operators in our county have stated that they have never been required to refrigerate bag lunches brought from home. Their rationale has been that if they contain ice/cold packs, this is sufficient. Section .2804(Food Supplies)(g) states "All bag lunches **containing potentially hazardous foods shall be refrigerated** in accordance with this section" Actually, this section isn't the one which clarifies refrigeration as to temperature- .2805 Food Protection does. However, the point is that these must be refrigerated to 45° or below if they contain **potentially hazardous foods**. Therefore, we are advising all operators who have bag lunches brought in that they must either:

- 1) refrigerate without attempting to determine whether **potentially hazardous foods** are present or
- 2) verify if they are present by inspecting bags, having contents of bags written on outside, or asking Mom.

There is no provision for any type of cold pack.

#### 9. Washing machines/dryers in kitchens

Section .2804(Food Supplies)(d) states "Food shall not be stored in toilet or laundry rooms..." Does the presence of a washer or a dryer in a kitchen make the room a "laundry" room? Can the installation of such be prohibited because the kitchen can then be classified as a laundry room? Our interpretation is that you cannot prohibit their installation nor can you re-classify the kitchen as a laundry room. **Please state the State's position on this issue.**

#### 10. Spray rinse toilets or utility sink

Section .2817(Toilets)(c) states "If potty chairs are used, they shall be located in a toilet room equipped with a spray rinse toilet or utility sink". **Please define what a spray rinse toilet is and provide a schematic or drawing.** There seems to be little agreement, both in the industry and among regulatory people, on exactly what this looks like.

#### 11. Mat storage

Section .2821(Beds, Cots, Mats, and Linens)(a) states "All beds, cribs, cots, and mats shall be in good repair **stored to protect them from splash, drip, and other contamination....**". Paragraph (d) also refers to mat storage in "... stored so that the floor side does not touch the sleeping side....". With these two references, how can mats be stored directly on the floor (this assumes the bottom mat has its 'floor' side to the floor)? If they cannot be stored directly on the floor, what is considered adequate protection underneath the bottom mat...a plastic liner? **Please state the Branch's position on this storage issue.**

## 12. Outdoor hazardous materials-poisonous plants

Poison ivy is periodically observed at outside play areas at day cares. All EHSs cannot identify poison ivy on sight. I have been advised that this item is noted on certain inspection sheets under Section .2832(Outdoor Areas)(a) whereby it is determined to be a "...hazardous material...". We have concerns with marking this item since:

- All individuals cannot identify poison ivy on sight and failure by one EHS to mark while another does is not consistent and lends grounds for liability
- There are numerous poisonous plants in N.C. If we go on record as marking poisonous plants, we'd better be able to identify the minimum 65+ plants which I've seen in a N.C. State Botanical and Agricultural guide publication. Again, considerable grounds for liability exist if you imply that one of the hazards we are responsible for ensuring are not present is poisonous plants and we cannot identify those 65- ∞ ones on sight.

Please specify what the Branch's position is on documenting poison ivy on sanitation evaluations.

## 13. Identified Lead Hazards- When To Demerit

If an inspection results in a referral and subsequent identification of lead hazards at a day care , when exactly is the item marked ? At the time of the next scheduled inspection **if the hazards have not been remediated by this time or at any return visit ? Please specify what the Branch's position is on this.**

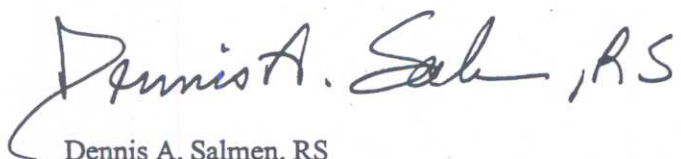
## 14. Storage of Medications in Refrigerators

Section .2820(Storage)(d) states "Medications which require refrigeration shall be stored in a locked box.....in a refrigerator which is not accessible to children". I am aware of Worth Heath's memo dated March 30, 1999 which states that "Making the refrigerator inaccessible to children is not necessary to adequately protect children". I would request that this be run by Bert Fields. Although I may agree in principle with Worth, the rule language is neither vague nor interpretive. It clearly states the refrigerator has to be inaccessible...period. This would not seem to give the State or local officials any latitude without a rule change.

I would appreciate your review and expeditious response to the aforementioned items . I realize the list is quite long and will take time to formulate responses to. All these items have been raised as a result of staff and industry inquiries as well as recent inspections.

Thank you for your attention to this matter.

Sincerely,



Dennis A. Salmen, RS  
Program Chief  
Public Health Pest Management & Environmental Services

cc: Jim Ericson, Env. Supervisor, MCHD  
Bobby Cobb, Division Head, MCHD  
Ed Norman, Children's Environmental Health Branch  
Bert Fields, NC Attorney General's Office

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NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL HEALTH  
ENVIRONMENTAL HEALTH SERVICES SECTION

December 10, 1999

MEMORANDUM

**TO:** Dennis Salmen, Program Chief  
Mecklenburg County Department of Public Health

**FROM:** Sheila F. Nichols, Regional Environmental Health Specialist  
Children's Environmental Health Branch

**THROUGH:** Ed Norman, Program Supervisor  
Children's Environmental Health Branch

**SUBJECT:** Requested child care sanitation clarifications.

The following responses are provided in regards to your letter dated August 27, 1999.

1. Care rooms- lavatories for food service/preparation

Your concerns were addressed in a memo from Larry Michael dated July 6, 1999. A copy of that memo is enclosed. To summarize, plating foods is considered food service when food from a bulk container is placed on an individual child's plate or into a container to be used for family style food service. Simply placing a bulk container or plate of food onto a table is not considered food service. In addition, an existing lavatory in a room may be used as a food service lavatory, provided the sink is cleaned and properly sanitized (immediately before the meal is served) as required by 15A NCAC 18A .2818(c).

2. Infant care areas- lavatories for diaper changing staff

The appropriate location of handwash lavatories for caregivers at diaper changing facilities is addressed in .2819(d). However, the exact location of handwash lavatories is not clearly indicated. Professional judgment or a local policy should be used to determine the appropriate location for such lavatories as the layout of child care centers varies from site to site. Local polices should allow for continued use of handwash lavatories that were considered in compliance prior to recent rule changes as this rule was not appreciably amended. The critical issues are that each diaper changing area have a handwash lavatory and that children and caregivers may use the same sink. A copy of the memo mentioned in your letter, dated May 15, 1998 to Tom Stich at New Hanover County Health Department, is enclosed.



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3. Handwash lavatories- height

Lavatory height is only addressed in .2818(a), which states that "Lavatories shall be mounted at an appropriate height to accommodate the children, or otherwise made accessible." Specific heights are not indicated and, therefore, professional judgement or a local policy should be used to determine when other means, such as a step, are needed to make lavatories accessible to the children. Likewise, a minimum height for adult caregiver lavatories is not specifically indicated in the rules. Again, professional judgement or a local policy should be used to determine the appropriate size and location of handwash lavatories. Local policies should allow for continued use of lavatories that have been considered appropriate in the past as there have been no rule amendments that would support stricter enforcement. The response to Dr. Poole dated January 9, 1998 and mentioned in your letter was not distributed statewide as an official policy memo and, as you point out, is not consistent with our current response, which is our official rule interpretation.

4. Drainboard length- cumulative with counter top length; and 4b. Drainboards, countertops of adequate size

These issues were addressed in a memo from Warren Richardson dated September 3, 1999. A copy of that memo is enclosed. To summarize, drainboards and countertop space may be cumulative (i.e., not continuous) so long as they extend from either end of the kitchen sink. Also, drainboards and countertops should be kept clean. If they are not clean, demerits should be marked on the grade sheet.

5. Can wash hot water minimum temperatures

Your concerns are addressed in a recent memo from Wayne Jones dated December 10, 1999. A copy of that memo is enclosed. To summarize, hot water that is at least 130° F is appropriate for canwash facilities and these cleaning facilities should not be accessible to children. However, a grandfather clause in .2830(b) allows for other cleaning facilities approved prior to July 1, 1991 if functioning properly (including those that do not meet the 130° F hot water requirement). In addition, six demerits should be marked on item #16 for any canwash with hot water that is greater than 110° F and is accessible to children. If no canwash exists, then two demerits should be marked on item #48.

6. Child access to kitchen-supervised activity

Your concerns with these issues were addressed in a memo from David Brown dated February 24, 1999. A copy of that memo is enclosed. To summarize, a variety of barriers when

installed and used will prevent children's access to the kitchen. If the barrier used is a half or a full door, the door must be locked when the kitchen is left unattended. In situations where the kitchen serves as a fire exit the operator may use a low gate equipped with a child proof latch (if approved by the Fire Marshall) that blocks children's access to this area while still allowing an adult to step over the barrier in an emergency. Hazardous products used in the kitchen must be stored in a locked closet or cabinet when the kitchen is unattended. If the kitchen has a half or full door, simply locking the door with a key is sufficient to prevent children's access to this area and will meet the storage requirements in .2820. Finally, any activity where a child is supervised by a caregiver is considered a supervised activity.

#### 7. Sanitizing with Quaternary ammonium products-contact time

Manufacturers' recommended chemical strengths, contact time, intended purpose, and recommended testing equipment should be used as a reference. If a sprayed sanitizer on a diaper changing surface has not air dried once the contact time is reached, the surface should be wiped dry with a clean, dry paper towel before the next child is changed.

#### 8. Bag lunch refrigeration

Rule .2804(g) indicates that all bag lunches containing potentially hazardous foods shall be refrigerated. While some bag lunches may contain ice packs, there is no provision in the rules to allow for ice packs in lieu of refrigeration for potentially hazardous foods.

#### 9. Washing machines/dryers in kitchens

It is certainly preferred to have washing machines and dryers located in a separate laundry room. However, this type of equipment is sometimes located in kitchens especially in older child care centers. These centers should develop procedures to wash and dry laundry when food is not being prepared. During plan review for new centers, washing machines and dryers should be located away from the kitchen.

#### 10. Spray rinse toilets or utility sink

Facilities to empty, rinse, clean and sanitize potty chairs are addressed in .2817(c) and must be evaluated on a case-by-case basis using professional judgment or a local policy. Centers that use potty chairs typically empty them in a toilet, clean them in a utility sink and sanitize them with an approved spray sanitizer. Canwash facilities also may be used to clean potty chairs. However, caregivers should not have to carry potty chairs through the kitchen or other class rooms to use a canwash.



Dennis Salmen  
December 10, 1999  
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11. Mat storage

Storage of mats is addressed in .2820(a) in order to facilitate cleaning. Improper mat storage should be marked under item #31 on the grade sheet.

12. Outdoor hazardous materials- poisonous plants

Rule .2832 (a) indicates that "grass and other vegetation shall be maintained in a manner which does not encourage the harborage of vermin." If during a sanitation evaluation, a potentially poisonous plant is observed, a general comment should be made on the grade sheet and the child care consultant should be notified if deemed necessary.

13. Identified lead hazards- when to demerit

This issue was addressed in a memo from Anna Carter and Ed Norman dated July 12, 1999. A copy of that memo is enclosed. To summarize, after a lead poisoning hazard is identified, six demerits should be marked on items #41 and/or #54 of the grade sheet at the next routine sanitation inspection if the hazards have not been remediated.

14. Storage of medication in refrigerators

Medication storage was addressed in a memo from Worth Heath dated March 30, 1999. To summarize, .2820(d) states that medications which require refrigeration shall be stored in a locked box. If the locked box is stored in the refrigerator, the locked box should adequately protect children and it should not be necessary to make the entire refrigerator containing the locked medicine box inaccessible to children.

I hope this information has been helpful. Please feel free to contact me at (336) 973-8622 if you have any further questions.

Enclosures

cc: EHSS Standard Distribution List