

# Forsyth County Department of Public Health

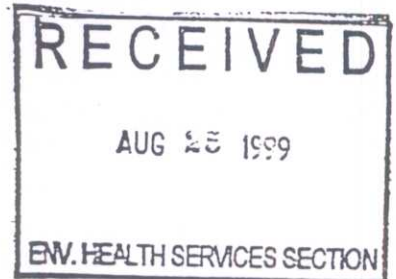
Sherman E. Kahn, M.D.  
Health Director

Fred G. Overstreet, Director  
Environmental Health



August 19, 1999

Mr. Ed Norman  
Children's Environmental Health Branch  
Environmental Health Services Section  
DEHNR  
P O Box 29534  
Raleigh, N C 27626-0534



Re: Day Care Sanitation Rule Interpretation

Dear Mr. Norman:

During a recent "crisis" in a new daycare facility here in Forsyth County, Warren Richardson, of your office, was requested to assist in the interpretation of several rules for this center. During a discussion in the offices of the Forsyth County Division of Environmental Health, prior to the site visit that Mr. Richardson conducted, certain disagreements arose that were not resolved at that time. This office is requesting your help in acquiring an official interpretation of the rules for future reference. The issues and discussion of the issues are close to the following:

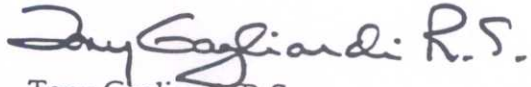
1. Rule .2810 (2)(B) states that at least a two-compartment sink shall be provided "with drainboards or countertop space of adequate size on each end".... Rule .2812 (c) states that for new centers "licensed on or after April 15, 1998 drainboards or countertop space shall be no less than 24" long." I am enclosing a drawing depicting the problem that this Department encountered in this new center. The sketch was created by Mr. Richardson at our request. We have no issue with the left side of the two-compartment sink. It is our opinion that the right side of the sink only has six inches of counter top space and not the 24" we see required in rule. Mr. Richardson stated that he believed that the counter space does not have to be contiguous to the sink. The counter space could be distant to the sink and could even be across the room from the sink for that matter. This Department does not agree with this position. We believe that the wording of the rule would require the counter space to be adjacent to the sink, without the intrusion of a hand sink, as is shown in this particular case. The hand sink placement shown on the plan, leads to obstruction of the drainboard/counter top area. This situation can lend itself to cross-contamination of the operations and procedures in the area. The process of hand washing can be hindered or prevented by an ongoing utensil washing operation. The placement was not installed as was initially shown on the plans submitted for review and was installed without the knowledge or approval of this office. Please state your position on this issue?

2. Rule .2825 (b) requires that the ceilings in the kitchen and the toilet room (s) be " non-absorbent and easily cleanable". It has always been the opinion of this department that a rough textured sprayed ceiling finish was not easy to clean. If attempts are made to clean most of these ceilings, the ceiling finish will be removed by the slightest attempt to clean or brush the finish. If this ceiling finish was applied over 8-10 years ago, it was a common practice not to put anything in the spray mix to bind the finish to the ceiling. If the finish becomes wet due to cleaning or painting, the finish will come down in sheets most of the time. Most of these materials are absorbent. It is also difficult to understand how this type of rough, delicate and absorbent sprayed finish could be considered easily cleanable. Mr. Richardson expressed an opinion that ceilings are not cleaned anyway they are painted. "When a ceiling gets soiled you just paint it." (rough quote) It would seem that painting a ceiling of any size is not an operation of cleaning at all. Painting is a maintenance operation and is generally not considered easy even if it does not peel off when it becomes damp from the painting. This department is convinced that this type of ceiling finish is not easily cleaned, is probably absorbent and does not meet the rule. Your official position for this rule interpretation is requested.
  
3. The next issue is the sizing of the water heating system. This center happened to have a clothes washer in the basement. The facility utilizes one water-heating unit to provide all heated water for use in this center. It would seem to be a proper approach to include any item that is hooked up to this heater when considering the sizing of the heater for this facility. Rule .2815 (d) states that "Water heating equipment that is sufficient to meet the maximum expected requirements of the child care center shall be provided." There is no way that the use of the washer can be restricted or controlled, therefore it is the position of this Department that this washer should be included in any calculations for the heater size. It seemed to be Mr. Richardson's position that this washer is outside of the area designated for the center and could not be included in any calculations for this heating system. It was our impression that Mr. Richardson was saying that, no matter what else was connected to the heating system outside of the center, the only information to be used when calculating the facility hot water demand requirements was the water using equipment within the defined area of the child care center. This approach does not seem to make good sense. There may be several water using fixtures outside of the defined area that can place a great demand on the heater. It is this Departments position that anything that is connected to the heater to be used for the facility should be included in the calculations for sizing this heater. We again would appreciate your official position as to how to size a water heater and what to include in the calculations for a child care center.
  
4. Finally, it does not seem to be good public health practice, to allow a center to receive a superior classification and be licensed with the many possible deficiencies that would be indicated within the 15 demerits that are allowed. The new facilities should comply with all rules as well as the requirement that the facility meet the specifications of the approved plans prior to being approved. It would be the position of this Department that this portion of the

statute and the rules should be reevaluated for consistency with all of the rules and be amended to assure sound and safe public health policy is being pursued in our rules.

The current practice being conveyed to the specialists in the field do not seem to serve the citizens of the state and their children well. We would appreciate your reply to the concerns expressed above at your earliest convenience. If you have any questions or wish to discuss any of these items further, please feel free to call one of us listed below.

Sincerely,



Tony Gagliardi, R.S.

Environmental Health Program Specialist



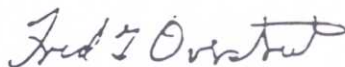
Rita Briscoe, R.S.

Environmental Health Specialist



Bob Whitwam, R. S.

Environmental Health Supervisor



Fred G. Overstreet, R. S.

Environmental Health Director

TG;tg

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c: Warren Richardson

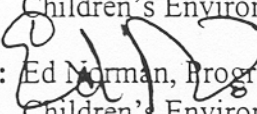
NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT AND NATURAL RESOURCES  
DIVISION OF ENVIRONMENTAL HEALTH  
ENVIRONMENTAL HEALTH SERVICES SECTION

September 3, 1999

MEMORANDUM

**TO:** Tony Gagliardi, Environmental Health Program Specialist  
Rita Briscoe, Environmental Health Specialist  
Bob Whitwam, Environmental Health Supervisor  
Fred G. Overstreet, Environmental Health Director  
Forsyth County Department of Public Health

**FROM:** Warren B. Richardson, Regional Environmental Health Specialist  
Children's Environmental Health Branch 

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

**SUBJECT:** Interpretation of Rules: 15A NCAC 18A .2810 (a) (1), .2810 (b) (2) (B) Specifications Kitchens and .2812 (c) Manual Cleaning and Sanitizing; .2825 (b) Walls and Ceilings; .2815 (d) Water Supply; and .2834 (b) (1), .2834 (b) (2) Compliance and .2802 (c) Approval of Construction and Renovation Plans.

The following rule interpretations are provided in response to your recent letter (see attached) concerning conditions at Nona's Day Care in Winston-Salem. Your first issue concerns the appropriate location and size for required drainboards or countertop space. As discussed in a recent phone conversation, 15A NCAC 18A .2810 (b) (2) (B) does not pertain to child care centers licensed for or serving food to fewer than 30 children. The relevant rule in this instance is .2810 (a) (1), which does not require drainboards or countertop space so long as multi-service articles are not used. However, we do agree that 15A NCAC 18A .2812 (c) is somewhat inconsistent with .2810 (a) (1) in that drainboard and countertop space requirements are not differentiated based on the size of the center. It is our interpretation that the requirement for drainboards or countertop space of adequate size in .2812 (c) only applies if such equipment is required under the relevant paragraph of .2810.

The bigger issue that you raise is whether or not the 24" drainboards or countertop space, when required, must be contiguous with each end of the sink. From an ideal public health standpoint, the drainboards or countertop space should be adjacent to the sink without the intrusion of other equipment. However, in our opinion, the wording in 15A NCAC 18A .2810 is not specific enough to prevent utilization of any available countertop space so long as it extends from each end of the sink. On the other hand, .2810 clearly does not allow for the use of drainboards or countertop space that are across the room. Your concerns regarding cross contamination potential are certainly legitimate and may require additional safeguards depending on the location and type of equipment on the countertop.



JAMES B. HUNT JR.  
GOVERNOR

WAYNE McDEVITT  
SECRETARY

LINDA C. SEWALL  
DIRECTOR

MICHAEL U. RHODES  
SECTION CHIEF

Your next issue concerns cleanability of ceilings as prescribed in 15A NCAC 18A .2825 (b). We agree that textured ceilings are not easily cleanable using wet methods. Unfortunately, rule .2825 does not specifically indicate what is intended by the phrase "easily cleanable". In our opinion, ventilation provided in both the kitchen and toilet room reduce the likelihood of grease and moisture absorption such that the textured ceilings at this home are cleanable by other methods (e.g., periodic vacuuming). Given the preponderance of this type of ceiling in residential construction, it is our intent to clarify this issue by temporary rule amendment in the near future. We propose to specifically allow textured ceilings in residential-based child care centers licensed for fewer than 13 children where ventilation minimizes the likelihood of grease and moisture absorption.

Your third issue concerns sizing of the water heating equipment as required in 15A NCAC 18A .2815 (d). It is our opinion that only water using fixtures that are part of the designated child care center and are intended to be used during the operation of the center contribute to the maximum expected hot water requirements even if other fixtures are connected to the same water heating system. In fact, it is not difficult to restrict the use of extraneous water fixtures during the operation of the center. The child care consultant can condition the license on such restrictions at your request. Again, because the situation you describe occurs most commonly in residential-based centers (e.g., portions of the home which contain water fixtures are not within the designated child care center), it is our intent to clarify this issue by temporary rule amendment. We propose to identify water fixtures, by location and intended use, that should be included in sizing water heating equipment and those that should be restricted from use during operating hours, as well as indicate what sizing guidelines should be used for residential-based centers licensed for fewer than 13 children.

Finally, you raise an important question regarding the appropriateness of allowing a child care center to be licensed with as many as 15 demerits. From a public health standpoint, we agree that requiring a perfect sanitation rating is preferred. Currently, 15A NCAC 18A .2834 (b) (1) and (2) do not provide health departments with such authority. Rule .2834 requires only that a superior classification be obtained in order for a license to be issued to a new operator, and indicates that a center shall be classified as superior if no more than 15 demerits are received during an inspection so long as no six-point demerit items are violated. In addition, the list of six-point demerit items was specifically developed in order to identify those critical areas that warrant special attention in order to prevent unsafe facilities from opening or continuing to operate. It is our opinion that achieving 220 out of a possible 235 points (94%) without violating any critical six-point items provides public health protection.

Your letter also correctly points out that construction and modifications must comply with approved plans under 15A NCAC 18A .2802 (c). This rule does not explicitly state that compliance be achieved "prior to being approved" as indicated in your letter. Enforcement of

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.2802 (c) should occur whenever an inspection is conducted by marking demerits for items that do not comply with the approved plans. However, lack of compliance with all aspects of an approved plan must not be used to avoid conducting an initial inspection because current state law does not require a perfect sanitation rating in order to obtain a child care center license as discussed above.

We hope this response is helpful in your interpretation of these rules. Please do not hesitate to call, Ed Norman at (919) 715-3293 or Warren Richardson at (336) 771-4608 ext. 383, if you have further questions.

Enclosure

cc: EHSS Standard Distribution List

Bertha Fields

Talitha Wright

Nona Crouch