



# Regulatory Infrastructure of Licensed Child Care

Prepared by DHS Licensing Division Staff for  
the October 12, 2019 meeting of the Licensed  
Family Child Care Legislative Task Force

# Who Needs a License?

- An individual who intends to care for children from more than one unrelated family must obtain a license
- Both child care centers and family child care programs must be licensed according to Minnesota Statutes, Chapter 245A.
- In general, child care centers are in an out-of-home location, caring for larger numbers of children.
- Family child care is generally provided in the caregiver's home with no more than 14 children cared for at any one time.

# Licensed Family Child Care Regulation – A Delegated System

- Family Child Care is licensed through a delegated system in partnership with counties (245A.16)
  - Licensed family child care programs are monitored by the county agency where the program is located. County agencies are responsible for ensuring compliance with health and safety standards.
  - DHS licenses family child care providers based on the recommendation of counties
  - Counties recommend sanctions to be issued by DHS
  - DHS monitors county agencies for compliance with their delegated licensing duties- moving to every two year review (used to be every 4 years)

# DHS provides training and technical assistance to county licensors.

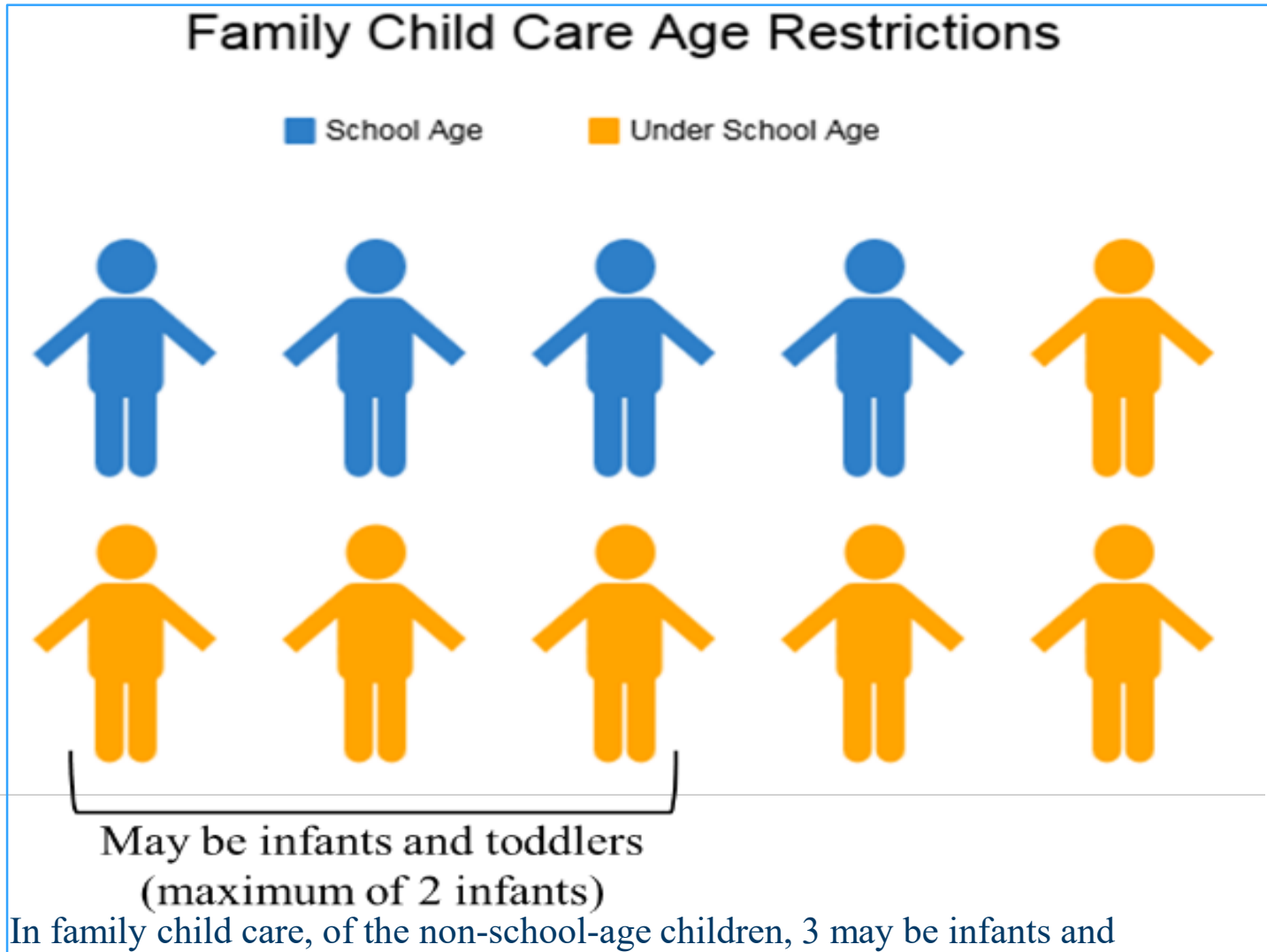
- The DHS Family Child Care Unit provides oversight and technical assistance to all 87 counties regarding family child care licensing activities, including how to conduct investigations and how to recommend licensing actions to the department.
- The Family Child Care Unit provides information to licensors at regionally based meetings and technical assistance on using ELICI, the new electronic checklist that county child care licensors are using for monitoring family child care providers. The regional consultants have reached out to every county licensor in the state.
- During 2018, the department provided ongoing training on using ELICI at 18 locations around the state. Sixteen classes were offered in various county offices; two were held at the department's training center in St. Paul. County outreach staff also travel to county offices and provide one-to-one training, when requested.

# Regulatory Requirements for Licensed Child Care Providers

Regulatory requirements fall into four broad categories:

1. Health and safety requirements, including infant safe sleep and ratio requirements
  2. Staff qualification and training requirements
  3. Physical standards
  4. Background study requirements
- Many of the requirements for licensed child care providers are listed in:
    - 245A & Rule 2 (chapter 9502) – Family Child Care
    - 245A & Rule 3 (chapter 9503) – Child Care Centers

# Family Child Care – Ratio & Group Size



- Minnesota offers seven classes of family child care licenses to offer flexibility to providers on the type of care they wish to provide
- The license holder is generally the primary care giver
- Child to adult ratios, maximum capacity, and age restrictions vary across family child care license classes

# Physical Standards

- Child Care Centers and Family Child Care Homes must meet certain physical plant standards to ensure that children are safe while in care. Requirements include:
  - Fire marshal inspection (if necessary) and compliance with building codes
  - Cleanliness and maintenance
  - Crib inspections
  - Equipment specifications
  - Water temperature and safety
  - Electrical appliance safety
  - Restricting access to toxic or dangerous items

# Licensed Child Care Background Study Requirements: Who Needs a Background Study?

- The person or persons applying for a license and
  - An individual age 13 and over living in the household where the licensed program will be provided;
  - An individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause;
  - Substitutes, helpers, other caregivers and anyone having unsupervised access and care of the children.



# Licensing enforcement mechanisms

## Fix-it tickets

- Issued for a **set list** of violations that do not imminently endanger the health, safety, or rights of children
- Can be corrected in short order (within 48 hours)
- List is set by the Commissioner
- Fix-it tickets are not posted on DHS' website

## Correction orders

- Issued for violations that do not imminently endanger the health, safety, or rights of children
- Issued if a program is out of compliance with one or more standards on the date of a review
- In most cases, correction orders are not paired with fines or more serious licensing actions

# Correction Orders in Family Child Care

- County licensors have delegated authority to issue correction orders to family child care programs.
- Until May, 2018 this data was not shared with DHS.
- In 2018, the Licensing Division implemented a web-based electronic checklist by which DHS and county licensors now enter correction information into a secure, centralized database.

# Licensing enforcement mechanisms

- If the nature, severity, or chronicity of the licensing violation warrants it, DHS may issue a **licensing action**. Licensing actions include:
  - Conditional license
  - Fine
  - Revocation of licenses
  - Suspension of license
  - Temporary immediate suspension of license

# Reconsiderations & Appeals

- License holders have due process rights to challenge correction orders and licensing actions using two legal processes
  - Request for reconsideration
    - Correction orders
    - Conditional licenses
  - Contested Case Hearing Appeal
    - Sanctions including: fines, revocations, suspensions, and temporary immediate suspensions

# Post Closure Surveys

## Task Force Duty:

(1) identify difficulties that providers face regarding licensing and inspection, including specific licensing requirements that have led to the closure of family child care programs, by reviewing previous survey results and conducting follow-up surveys, if necessary

## Overview of post-closure surveys about why family child care providers closed their licenses:

- Anoka County
- Sourcewell
- Think Small
- MACCP
- DHS
- Other States

- *However, surveys haven't indicated which specific regulations are causing providers to close their licenses.*

# Anoka County results

Anoka County surveys their family child care providers who close their license to find out why.

Here are the responses from 2016 to present:

- 22 Retired
- 17 License requirements and/or training
- 17 Career change
- 14 Burnout
- 10 Moved
- 10 Interference with family life
- 10 Paperwork
- 8 Isolation
- 8 Less need to be home since own children are older
- 43 Gave answers that received less than 8



# Sourcewell post-closure survey

- Sourcewell is a regional government entity that does licensing for seven counties in Greater MN (including Cass, Wadena, Morrison, Todd, Crow Wing Douglas, Becker)
- Conducts a child care exit survey on each program that closes asking these three questions:

*What has been your biggest challenge as a Licensed Provider?*

*Provide any feedback that would be helpful.*

*What is your main reason for not renewing or closing your license?*

## Here are the responses:

Too much paperwork

Expenses and not enough income

Health

Financial needs

Other job opportunity

No retirement plan

No healthcare

Retiring

Daily isolation

Demands of parents

Age

Regulations

Monthly paperwork

Health

Busing

Separating personal life with business

Lack of internal (needing additional helpers) support dealing with children with challenging behaviors

Think Small conducted post-closure surveys from January 2015 to January 2017.

They asked providers why they started their business, challenges/rewards they found in their work, and why they closed.

When asked about reason for closing, providers were offered four choices: business, career, financial and personal.

# Think Small results

44% metro and 37% across the rest of the state cited personal reasons

- low-income, long hours, physically-demanding work, pursuing other career, and medical challenges for provider or other family member

• 36% metro and 35% across the rest of the state cited business reasons

- bureaucracy/red tape/rules.
- some forced closed due to licensing actions.
- cost of operating the business (curriculum, home maintenance, training cost, and food),
- challenges of self-employment (lack of benefits),
- additional time taken to complete trainings outside of an already long 10-12 hour day,
- wear and tear on the home and intrusive rules (such as not smoking in the home)

Minnesota Association of Child Care Professionals (MACCP) conducted an anonymous survey in Spring of 2018

Sent to providers who had an email address in the Parent Aware system

Current and past providers were asked, “If you have considered closing your business, or have already closed, what were the primary reasons why?”

Providers were asked to choose one or more from the following possible responses. The results were:

- 1,884 Increased regulation and paperwork requirements
- 995 Increased training requirements
- 956 More punitive methods of oversight by DHS and/or county licensors
- 834 Mandatory fingerprinting of minor children age 13+ living in family child care home
- 464 Difficulty filling spots/making money due to public school “free” pre-k offerings in the community
- 353 Low CCAP reimbursement rates
- 205 Difficulty filling spots/making money due to reasons other than public school “free” pre-k
- 172 No longer interested in providing child care in my home

# DHS post-closure survey

The DHS family child care unit tracked reasons for closures for five months (Jan 2018 through May 2018). There were a total of 353 licenses that closed during that time.

- 53 -Career change or moving to another job
- 43 -Move out of county or State of Minnesota
- 43 -Retiring
- 40 -No reason given/ couldn't be reached
- 24 -Revoked license
- 15 -Family schedule
- 14 -Renewal paperwork wasn't returned to licensing
- 12 -Enrollment issues
- 12 -Health issues
- 11 -Family/personal issues
- 11 -Too many rules/changes
- 10 -Own children in school now
- 35 -Other

The decline in family child care is a national trend and is not unique to Minnesota.

Survey results from other states reflect similar reasons for closure as noted in Minnesota



# Connecticut Surveyed Providers Who Closed in SFY17

## Family Day Care Homes – 390 Closed (133 responses, 257 not reported)

Reason for Closure	Number of Programs	%
Retired	33	24.81%
Moved	26	19.55%
Career Change	25	18.80%
Regulatory Reasons ( <i>Summary Suspensions, Voluntary Surrenders in lieu of Revocations and Revocations</i> )	22	16.54%
Medical Reasons	13	9.77%
Business Not Profitable	12	9.02%
Maternity Leave	1	0.75%
Death in Family	1	0.75%
Returning to School	0	0.00%
Job Related Stress	0	0.00%
Lack of Benefits	0	0.00%
Hours Not Flexible	0	0.00%
<b>Total:</b>	<b>133</b>	<b>100%</b>

# Vermont Surveyed Providers Who Closed 7/2016-3/2017

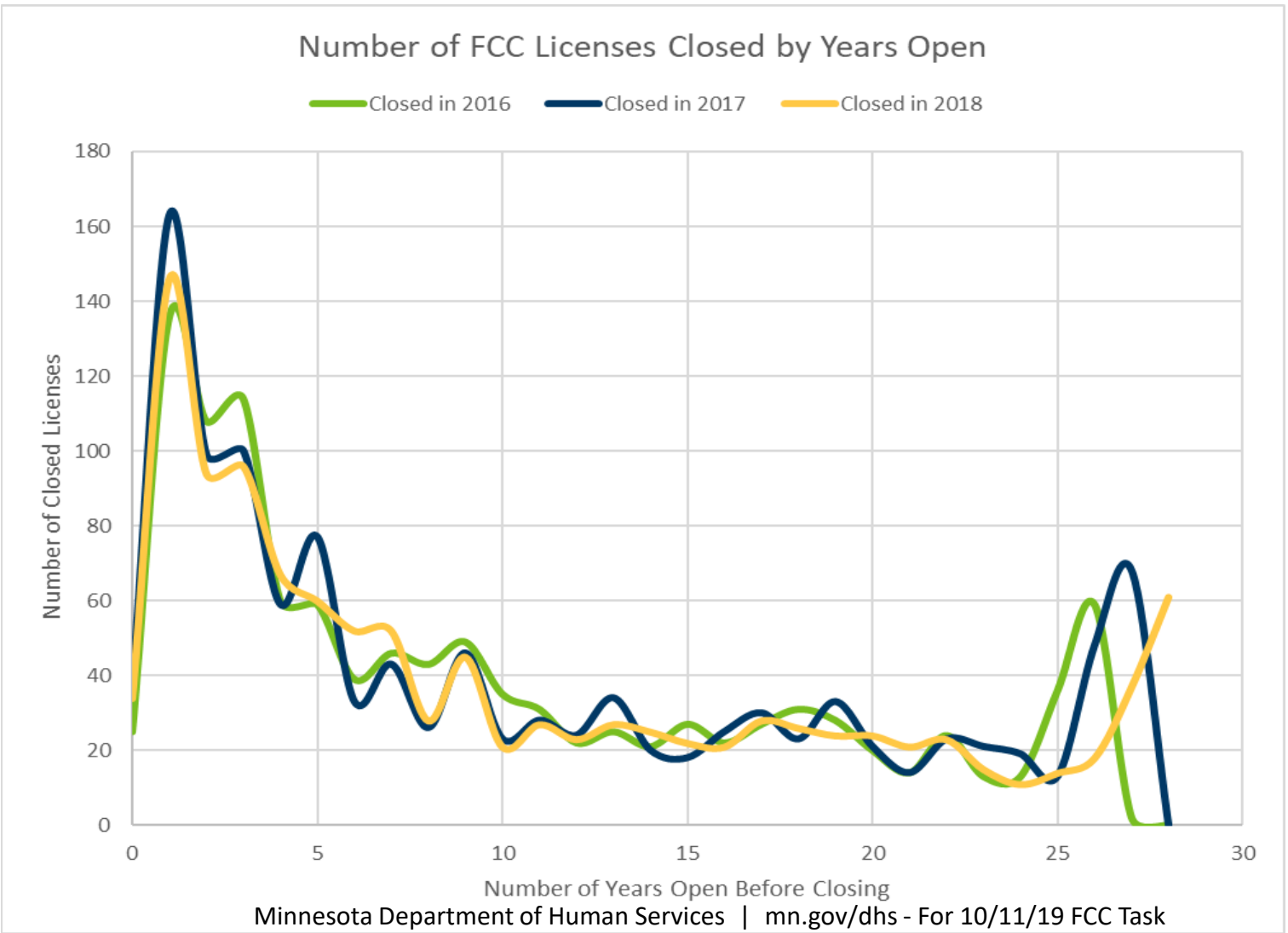
**Figure 5. Reason Child Care Programs Closed  
Closures July 2016 through March 2017**

Reason	Licensed	Registered	All Programs	Percent of Total
Requested closure or did not renew; no additional information was provided	8	69	77	44%
Program's license or registration was revoked or suspended by CDD	0	6	6	3%
Closed for other specific reasons	1	4	5	3%
The program was sold or change in ownership or in business structure	12	1	13	7%
License as consolidated per new regulations allowing one license in two adjacent building, easing burden on programs.	3	0	3	2%
Program indicated the regulations as the reason for closure	1	3	4	2%
Provider or owner moved out of state	1	7	8	5%
Provider moved to a new location and became licensed in the new space.	12	3	15	9%
Provider had personal, medical or family reasons for closing	0	11	11	6%
Provider indicated they were retiring	0	13	13	7%
Provider indicated they had a new/different job	0	4	4	2%
Program closed due to low enrollment	5	5	10	6%
Program is serving the children from this location in a different license at a different location.	6	0	6	3%
Program indicated financial issues as the reason for closing.	1	0	1	1%

# How Long Were FCC Providers Licensed When They Closed and What Does That Tell us?

- DHS looked at licenses closed in 2016, 2017 and 2018 to determine how long providers had been licensed at the time they closed.
- A significant number of providers closed after being licensed for less than 4 years.
- The next largest group of providers who closed were those licensed more than 25 years.

# How Long Were FCC Providers Licensed When They Closed and What Does That Tell us?



Minnesota Department of Human Services | mn.gov/dhs - For 10/11/19 FCC Task

Force Meeting

# Discuss draft surveys: Two Documents