

NOTICE OF PUBLIC HEARING

- Subject:** Opportunity to Comment on Proposed Amendment of Article 47 (Child Care Services) of the New York City Health Code, found in Title 24 of the Rules of the City of New York.
- Date / Time:** April 19, 2012, 10:00 A.M. – 12:00 P.M.
- Location:** New York City Department of Health and Mental Hygiene
2 Gotham Center, 14th Floor, Room 14-45
42-09 28th Street
Long Island City, NY 11101-4132
- Contact:** Rena Bryant
(347) 396-6071

Proposed Rule Amendment

The Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 47 of the Health Code relating to Child Care Services. This proposal was not included in the Department's Regulatory Agenda for FY '12 since the need for the proposal was not known at the time the Regulatory Agenda was promulgated.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to:

New York City Department of Health and Mental Hygiene
Board of Health
Office of the Secretary to the Board
Attention: Rena Bryant
2 Gotham Center, 14th Floor, Room 14-15, Box 31
Long Island City, NY 11101-4132

or electronically through NYC RULES at www.nyc.gov/nycrules or by email to RESOLUTIONCOMMENTS@HEALTH.NYC.GOV or online (without attachments) at <http://www.nyc.gov/html/doh/html/notice/notice.shtml> on or before 5:00 P.M., on April 19, 2012.

- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact Rena Bryant at the phone number shown above by April 5, 2012.
- Copies of written comments and a summary of oral comments received at the hearing will be available within a reasonable time after receipt between the hours of 9:00 A.M. and 5:00 P.M. at the:

New York City Department of Health and Mental Hygiene
Board of Health
Office of the Secretary to the Board
Attention: Rena Bryant
2 Gotham Center, 14th Floor, Room 14-05, CN 30
Long Island City, NY 11101-4132

Statement of Basis and Purpose

Statutory authority

These amendments to the Health Code are promulgated pursuant to §§558 and 1043 of the Charter. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 grants the Department rule-making authority.

Background of proposed amendments

The Charter provides the New York City Department of Health and Mental Hygiene ("Department") with jurisdiction to regulate many areas with the goal of protecting and promoting the health of all New Yorkers. The Bureau of Child Care, in the Department's Division of Environmental Health, enforces Article 47 ("Child Care Services") of the Health Code, which regulates all public and private group day care services providing care for children less than six years of age, except those residential-based programs that are registered or licensed by the State Office of Children and Family Services. Standards for school-based programs for children ages three through five have been established in Article 43 of the Health Code. Article 47 was repealed and recodified in 2008, as part of a general Health Code revision process, resulting in updating and reorganizing many of its provisions.

Proposed amendments

At this time, the Department is proposing the following further amendments of Article 47, explained in detail below:

- (1) Provide additional guidance and establish additional standards for programs providing care for infants in child care services.
- (2) Require that staff of each child care service be instructed and trained in the policies and procedures contained in the required written safety plan of each child care service.
- (3) Require reporting to the Department of incidents where children are seriously injured, died or where program staff or volunteers fail to maintain constant line of sight supervision; require permittees to provide a correction plan when such incidents occur; and designate a failure to report as an imminent or public health hazard.
- (4) Provide more guidance to parents about what to expect from a child care service in terms of incident reporting.
- (5) Replace the term "discipline" with "behavioral management."

(1) Infant care supervision and safe sleep environments. In early 2011, the death of a four month old child in an infant care program was reported to the Department. The Department investigated the incident, which occurred while the child was sleeping, and which was found to have resulted from natural causes by the City's Chief Medical Examiner. The Department's review of the supervision practices of the infant care program found that while supervision was provided in accordance with Health Code requirements, i.e., line of sight supervision was maintained by an adequate number of qualified and trained staff, the Code was silent as to what constitutes adequate line of sight supervision for sleeping infants. The Department is requesting that the Board amend Article 47 to assist infant care programs and the

Department in assessing whether they are providing such supervision at all times, as well as a safe sleep environment for infants. The proposed provisions are based on recommendations of the American Academy of Pediatrics, American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education's *Caring for our children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs*, 3rd ed., 2011. Accordingly, the Department is proposing that the Board amend §47.11 (Written safety plan) (b) to include provision in the written safety plan for infant sleep safety and for training staff in procedures, and to amend § 47.67 (Child development policies, program, rest periods and clothing) to add a new subdivision (f), Safe sleep environment for infants.

(2) *Staff training in policies and procedures in the written safety plan.* In addition, although Health Code §47.11 requires that emergency and other policies and procedures of every child care service be incorporated in the written safety plan, the Department notes that where rates of staff turnover in child care services are relatively high, many staff do not have adequate training in the contents and application of the written safety plan policies and procedures. When issues have arisen involving lack of supervision, recent Department inspections have noted that staff and volunteers are not aware of and are not being trained in the procedures in the written safety plan. Accordingly, the Department is asking the Board to amend this provision to specify more active training requirements.

(3) *Notification and preparation of a correction plan when children are injured, died, or were lost to supervision.* Since January 1, 2009 there have been 40 instances reported to the Department of child care services regulated by Article 47 failing to maintain line of sight supervision of children in their care resulting in the children wandering through and/or out of the child care facilities alone and unnoticed by child care services' staff. In addition the Department has received reports of 10 incidents resulting in the serious injury to a child, 2 fatalities, and 110 incidents of alleged child abuse in the same period. The DOHMH is usually notified of these incidents by complaints made by parents, the New York State Central Register for Child Abuse and Maltreatment, and concerned members of the public after they have come across a child alone in the neighborhood. Currently the Code requires that programs notify the Department and submit corrective action plans when programs are notified that staff or potential hires have a criminal or child abuse or maltreatment background, but does not require immediate notification to the Department of deaths, serious injuries, or lost children. This results in delays in reporting and immediate analysis of what happened and how to prevent further incidents from occurring. Accordingly, the DOHMH requests amendment of §47.19 (g) to add a requirement for timely reporting of these critical incidents and amendment of §47.21 (a)(2) to require the submission of a correction action plan within five business days for the Department's review and approval. The Department is also proposing amendment of the list of imminent or public health hazards in §47.01 (Definitions) to include failure to maintain constant and competent line of sight supervision as such a hazard. It is hoped that these amendments will reduce the frequency and recurrence of lost children incidents.

(4) *Parent orientation upon enrollment.* During a recent hearing on Code requirements for child care services by the City Council, some council members expressed a desire for increased communication between the Department and parents as to what to expect from the child care service their children attend. They said that parents were interested in getting more information about particular programs and child care services generally. Health Code §47.67(d)(2) (Parents) contains a number of requirements for allowing parents access to their children while they are attending child care services, but there is no requirement that the parents receive a full orientation in the policies and procedures of the child care service, including the contents of the written safety plan. The Department is proposing that the Board amend this provision to require that child care services provide orientation and information for parents, and that they distribute to parents copies of the Department brochure on how to get information on child care in New York City.

(5) *Discipline v. behavior management.* The Department is requesting that the Board amend the term “discipline” to substitute the term “behavior management,” to reflect current trends in child care practice which favor “behavior management” as a more neutral, non-judgmental term.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the text below, unless otherwise specified or unless the context clearly indicates otherwise.

The proposal is as follows:

Note-matter in brackets [] to be deleted

Matter underlined is new

RESOLVED, that subdivision (k) of §47.01 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§47.01 **Definitions.**

* * *

(k) *Imminent or public health hazard* shall mean any violation, combination of violations, conditions or combination of conditions occurring in a child care service making it probable that illness, physical injury or death could occur or the continued operation of the child care service could result in injury or be otherwise detrimental to the health and safety of a child. Any of the following shall be imminent or public health hazards which require the Commissioner or designee to order its immediate correction or to order the child care service to cease operations immediately and institute such corrective action as may be required by the Department or provided by this Code. Imminent health hazards shall include, but not be limited to:

(1) Supervision of children that is not in accordance with the supervisory ratios required by this Article;

(2) Use of corporal punishments or of frightening or humiliating methods of [discipline] behavior management;

(3) Failure to report instances of alleged child abuse or maltreatment to the Department and the Statewide Central Register of Child Abuse and Maltreatment and to take appropriate corrective action to protect children when allegations of such abuse or maltreatment have been reported to or observed by the permittee;

(4) Refusal or failure to provide access to the child care facility to an authorized employee or agent of the Department;

(5) Uncontained sewage in any part of the child care facility;

(6) Transporting children in the bed of a truck or trailer or in any other part of any motor vehicle that is not designed for passenger occupancy; or transporting children without adequate supervision; or failing to use appropriate child restraints in vehicles;

(7) Failure to provide two approved means of egress or obstructing any means of egress or a required fire exit;

(8) Failure to properly store flammable liquids or other toxic substances;

(9) Failure to maintain firefighting or fire detection equipment in working order;

(10) Allowing pillows to be used for children who are not disabled or when not recommended by a health care provider;

(11) Contamination of the potable water supply by cross connection or other faults in the water distribution or plumbing systems;

(12) Serving food to children from an unknown or unapproved source; serving food that is adulterated, contaminated or otherwise unfit for human consumption, or re-serving food that was previously served;

(13) Holding potentially hazardous foods for periods longer than that necessary for preparation or service at temperatures greater than 41°F or less than 140°F;

(14) Failing to exclude from work at the child care service a person with a communicable disease who is required to be excluded pursuant to Article 11 of this Code;

(15) Failure to implement the child care service's written safety plan resulting in a child not being protected from any unreasonable risk to his or her safety;

(16) Conducting construction, demolition, painting, scraping, or any repairs other than emergency repairs while children are present in the child care service; failing to remove children from areas and rooms while such activities are in progress;

(17) Failure to screen any person who has, or will have the potential for, unsupervised contact with children in accordance with §47.19 of this Article; [or]

(18) Failure to maintain constant and competent line of sight supervision of each child in a child care service at all times; and

[(18)] (19) Any other condition(s), violations, or combination of conditions or violations, deemed to be an imminent health hazard by the Commissioner or his or her designee.

(l) *Infant* means a child younger than 12 months of age.

* * *

Notes: Subdivision (k) of §47.01 was amended by resolution of the Board of Health adopted on XXX to include as an imminent health hazard the failure to maintain constant and competent line of sight supervision of each child attending a child care service and/or to report an incident of a lost child to the Department or to the child's parent.

RESOLVED, that §47.11 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§47.11 Written safety plan.

(a) *Safety plan required.* Every current permittee and every applicant for a new permit shall develop, review annually and update, in accordance with changed circumstances, conditions or activities, or as required by the Department, a written safety plan. The written safety plan shall be approved by the Department if it includes all the information required in this Article. Upon permit renewal, if no changed circumstances require changes to a previously approved written safety plan, the permittee shall state in writing that no changes were needed or made to the plan. The safety plan shall be implemented by the permittee, [used in training staff and volunteers,] provided to parents on request, kept in an accessible location at the child care service where it may be used by staff for reference and be available for Department inspection. The child care service must provide all staff and volunteers with copies of the safety plan, and training in implementing the policies and procedures of the plan. Documentation showing that staff have received copies of and training in the provisions of the safety plan must be maintained by the permittee and made available for inspection by the Department.

(b) *Scope and content.* The written safety plan shall establish policies and procedures for safe operation, including teaching and other staff duties, facility operation and maintenance, fire safety, general and activity-specific safety, emergency management, staff and child health and medical requirements, staff training and parent/child orientation. The written safety plan shall consist of, at a minimum, a table of contents and the following components:

(1) *Staff:* organization chart, job descriptions, responsibilities and supervisory responsibilities.

(2) *Program operation and maintenance:* including, but not limited to, schedules and designated staff for facility inspection, cleaning and maintenance, schedule for boiler/furnace and HVAC system maintenance, maintenance of adequate water pressure, protection of the potable water supply from submerged inlets and cross-connections in the plumbing system, schedule for the annual lead paint survey, inspection of window guards, indoor and outdoor equipment inspection and replacement schedule, evaluation of injury prevention procedures, equipment and structures, identification of procedures for transportation vehicle maintenance, food protection procedures during receipt, storage and preparation, identity of individuals certified in food protection, schedule for sanitization procedures of food prep areas and identification of approved food sources.

(3) *Fire safety:* evacuation of buildings and property, assembly, supervision, and accounting for children and staff; fire prevention; coordination with local fire officials; fire alarm and detection systems and their operation, maintenance, and routine testing; type, location and maintenance of fire

extinguishers; inspection and maintenance of exits; required fire drills and log; electrical safety; and reporting to the Department within 24 hours fires which destroy or damage any facilities, or which result in notification of the fire department, or are life or health threatening.

(4) *Health care plan*: statement of policies and procedures to show how the health and medical requirements of this Code shall be implemented for maintaining children's medical histories; addressing individual children's restrictions on activities, policies for medication administration and special needs, if any; initial health screening for children and staff; daily health surveillance of children; procedures for providing basic first aid, handling and reporting medical emergencies and outbreaks; procedures for response to allegations of child abuse; identification of and provisions for medical, nursing and emergency medical services addressing special individual needs; names, qualifications and duties of staff certified in first aid and CPR; description of separation facilities, supervision and other procedures for ill children to be provided by the child care service until parent arrives; storage of medications; location and use of first aid and CPR supplies; maintenance of a medical log; description of universal precautions for blood borne pathogens; reporting of child and staff illness and injuries; and sanitary practices. When the permittee has a medication administration policy, the permittee shall immediately notify the Department of any changes in designated exempt or certified staff.

(5) *Corrective action plans*: actions to be taken to protect children on receipt of reports of alleged and confirmed teaching and other staff criminal justice or child abuse histories.

(6) *General and activity specific safety*: description of child supervision and staff schedules, including arrangements for general supervision; supervision during and between on-site activities; recreational and trip supervision for specific outdoor and off-site activities; supervision during sleeping and rest hours; transportation; and in emergencies.

(7) *Infant sleep safety*: practices and policies that establish a safe sleeping environment, promote an infant's comfort and well-being and reduce the risk of suffocation or death occurring while infants are in cribs or asleep. Such practices and policies must be based on current recommendations of the American Academy of Pediatrics, American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education, *Caring for our children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs*, 3rd edition, 2011, or successor recommendations. The plan must include procedures for actively observing and evaluating infants for overheating, breathing status, and other signs of physical or medical distress that may require intervention, at intervals not to exceed 15 minutes. Documentation must be maintained, on forms provided or approved by the Department, of staff-infant observations. The infant/toddler education director must review and approve the observation forms and make them available for inspection by the Department. The use of infant movement monitors or infant apnea monitors does not relieve the child care service from conducting and noting required observations.

[(7)] (8) Staff training: new employee orientation; training curricula, including how staff will be trained in the provisions of the written safety plan and be made aware of its contents of and any changes to the safety plan; procedures for child supervision, infant sleep safety; [and] behavior management; child abuse recognition and reporting; provision of first aid and emergency medical assistance; reporting of child injury and illness; managing and reporting incidents where children are lost to supervision; fire safety and fire drills; child and staff evacuation procedures; activity specific training for assigned activities; and process to document attendance at staff training.

[(8)] (9) Emergency evacuation: age-specific plans for removal of children from the premises for each shift and program where care is provided. Primary emphasis shall be placed on the immediate evacuation of children in premises which are not fireproof. Emergency evacuation procedures, implementing Fire Department recommendations, shall be posted in conspicuous places throughout the facility. The emergency evacuation plan shall include the following:

- (A) How children and staff will be made aware of the emergency;
- (B) Primary and secondary routes of egress;
- (C) Methods of evacuation, including where children and staff will meet after evacuating the building, and how attendance will be taken;
- (D) Roles of the staff and chain of command;
- (E) Notification of authorities and the children's parents.

[(9)] (10) Parent/child orientation: orientation curriculum outline; tour of premises; reporting and management of illnesses, injuries and other incidents; evacuation plan; lost child plan; lightning plan; fire safety and fire drills; evacuation procedures; activity specific training for assigned activities; trips (if provided).

Notes: §47.11 was amended by the Board of Health by resolution adopted XXX, adding provisions requiring training in the policies and procedures included in the written safety plan for staff and volunteers to subdivision (a) and a new paragraph (7) for infant sleep safety provisions to subdivision (b).

RESOLVED that subdivision (g) of §47.19 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§47.19 **Criminal justice and child abuse screening of current and prospective personnel; reports to the Department.**

* * *

(g) *Reports to the Department.* Permittees shall notify the Department within 24 hours when they have received an indicated report from the SCR; an employee report that an allegation has been filed against the employee; and a record or report of criminal conviction(s), pending criminal action, or arrest or

criminal charge for any misdemeanor or felony for any person required to have a criminal record review or SCR screening. Permittees must also notify the Department within 24 hours whenever a child attending a child care service has been seriously injured, has died, or a child in their care has been unaccounted for, left behind at any location outside the child's assigned classroom or where supervision has not been maintained in the manner required by this Code for any period of time while in the care of the permittee.

Notes: Subdivision (g) was amended by resolution adopted XXX to add a requirement that the permittee timely report any incident involving death or serious injury of a child or that a child has been lost to supervision while attending the child care service.

RESOLVED that paragraph (2) of subdivision (a) of §47.21 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§47.21 Corrective action plan.

(a) *Approved corrective action plan required.* A corrective action plan shall be submitted by the permittee [and approved by the Department] to the Department within five business days for review and approval by the Department.

* * *

(2) When a death or serious injury of a child or an incident involving a lost child has occurred while in the care of an applicant or permittee, or in the care of any owner, director, employee, or volunteer of the applicant or permittee or while in the care of any agent of the permittee, or if a related criminal or civil action has been already adjudicated or adjudication is pending in any jurisdiction with respect to such death or serious injury or incident involving a lost child.

* * *

Notes: Paragraph (2) of subdivision (a) was amended by resolution of the Board of Health adopted on XXX to require that permittees submit a corrective action plan whenever there has been an incident involving a lost child.

RESOLVED, that paragraph (3) of subdivision (a) of §47.77 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§47.37 Training.

(3) *Assistant teachers.* Assistant teachers shall complete 15 hours of training every 24 months, including the mandatory child abuse prevention and identification training in paragraph (1), and other subjects related to child health and safety, and early childhood development. The Educational Director

shall develop a training curriculum based on assessment of the professional development needs of individual assistant teachers. The curriculum shall include, but not be limited to, the following topics:

(A) Preventing, recognizing signs of, and reporting injuries, infectious diseases, other illnesses and medical conditions.

(B) First aid and CPR

(C) Lead poisoning prevention.

(D) Physical activities, scheduling and conducting guided and structured physical activity.

(E) Asthma prevention and management.

(F) Setting up and maintaining staff and child health records including immunizations

(G) Growth and child development

(i) Early intervention

(ii) Early childhood education curriculum development and appropriate activity planning.

(iii) Appropriate supervision of children

(iv) Meeting the needs of children with physical or emotional challenges

(v) Behavior management [and discipline].

(vi) Meeting nutritional needs of young children

(vii) Parent, staff, and volunteer, communication and orientation: roles and responsibility.

(viii) The selection of appropriate equipment and classroom arrangement.

(ix) Safety and security procedures for fire safety, emergency evacuation, playgrounds, trips and transportation.

Notes: Paragraph (3) of subdivision (a) of §47.37 was amended by resolution of the Board of Health adopted on XXX to delete the term “discipline” from the training requirements in clause (v) of subparagraph (G).

RESOLVED, that §47.67 of Article 47 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§47.67 Child development policies, program, rest periods and clothing.

(a) *Program.* The program shall be varied in order to promote the physical, intellectual, and emotional well-being of the children. Corporal punishment and humiliating or frightening methods of control [and discipline] shall be prohibited. Food, rest or isolation shall not be used as a means of punishment. Punitive methods of toilet training are prohibited.

(b) *Schedules.* A written daily schedule of program activities and routines which offer reasonable regularity, including snack and meal periods, nap and rest periods, indoor and outdoor activities, and

activities which provide children with opportunities for learning and self-expression in small and large groups is required. When night care is provided, this schedule shall include routine personal hygiene, including changing into night clothes, brushing teeth, and washing before bed in the manner to be agreed between the parent and the operator.

(c) [*Disciplinary policies.*] Child behavior management. A written statement on the philosophy of [disciplining] managing the behavior of children shall be distributed to every staff member, posted in a prominent location within the child care service and made available to parents upon request.

(d) *Parents.*

(1) Unrestricted access. Parents shall have unrestricted access to their children at all times.

(2) Enrollment and orientation. At the time children are enrolled in a child care service, parents must be provided with information that acquaints parents with the policies and procedures of the child care service for supervision, attendance, admission, discharge, emergency and illness management as specified in the written safety plan and the requirements of this Code, and a copy of the Department brochure, "How to Get Information about Child Care Programs in New York City," or successor publication.

[(1)] (3) Video surveillance. The parents of all children receiving care in a child care service equipped with video surveillance cameras installed for the purpose of allowing parents to view their children in the child care setting by means of the internet shall be informed in writing that cameras will be used for this purpose. All staff of the child care service also shall be informed in writing if video surveillance cameras will be used for this purpose. The child care service shall make available copies of such notices to the Department upon request.

[(2)] (A) All parents of children enrolled in the child care service and all staff of the child care service shall be made aware of the locations of all video surveillance cameras used at the child care service.

[(3)] (B) Child care services opting to install and use video surveillance equipment shall comply with all law applicable to the use of such equipment.

[(4)] (C) Video surveillance cameras may not be used as a substitute for competent direct supervision of children.

[(5)] (D) Child care services opting to allow parents to view their children in the child care setting by means of the internet shall use and maintain adequate internet security measures at all times. Such measures include but are not limited to: passwords that are frequently changed that enable parent to access the internet site for viewing children; filtering measures that prohibit public access to or viewing of child care activities via the internet; and immediate corrective action in response to any report of abuse of the system or inappropriate access. Such services shall also advise the parents having access to views of the child care service through the internet of the importance of security in regard to such viewing and of the importance of the privacy rights of other children who may be viewed.

[(6)] (E) Video surveillance cameras shall be used only to transmit images of children in common rooms, hallways and play areas. Bathrooms and changing areas shall remain private and free of all video surveillance equipment.

[(7)] (E) Child care services that use video surveillance equipment shall allow inspectors and other representatives of the Department to have access to such equipment and to have viewing privileges as required by the Department.

(e) Children shall be comforted when distressed.

(f) Safe sleep environment for infants.

(1) An infant/toddler service must provide a safe sleep environment for each infant, consisting of a single crib or bassinet per child that is approved by the US Consumer Product Safety Commission, and that complies with standards of the American Society for Testing and Materials [ASTM] International for infant sleep equipment; and a firm crib mattress specifically designed for the equipment used, covered by a tight fitting sheet flush with the sides of the crib/bassinet. The crib or bassinet must be free of bumper pads, pillows or sleep positioning devices not medically prescribed, loose bedding, blankets, toys and other possible suffocation risks.

(2) Positioning. Infants must be placed in a supine position unless written medical instructions directing otherwise are provided by the infant's primary health care provider. The child care service must maintain written medical instructions and make the instructions available for inspection by the Department. Infants capable of turning over by themselves may remain in the position the infant attains.

(3) Prohibitions. Infants must not be allowed to sleep or nap in a car safety seat except during transportation. Infants must not be allowed to sleep on bean bag chairs, futons, bouncy seats, infant swing or highchairs, playpens or other furniture/equipment not designed and approved for infant sleep purposes and meeting safe sleep environment criteria. Infants found sleeping in other than a safe sleep environment must be moved to a safe sleep environment upon discovery. Only one infant may occupy a single crib or bassinet at any given time.

(4) Bedding. Bedding must be changed prior to placing an infant in a crib or bassinet previously occupied by another infant.

(5) Choking, tangling hazards. Bibs, necklaces, and garments with ties or hoods must be removed prior to placing an infant in a crib or bassinet.

[(f)] (g) Each child in full time child care shall have a quiet, relaxed period of approximately one hour a day. Shorter, comparable periods of quiet and relaxation shall be provided for each child who spends less time in the service.

Notes: §47.67 was amended by resolution of the Board of Health adopted XXX, adding requirements in subdivision (d) for enhanced parent orientation and a new subdivision (f) requiring provision of a safe sleep environment for infants in child care.

RESOLVED, that the Table of Section Headings in Article 47 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes to read as follows:

ARTICLE 47
CHILD CARE SERVICES

§47.01 Definitions

*

§47.17 Teaching staff qualifications in night child care services.

§47.19 Criminal justice and child abuse screening of current and prospective personnel; reports to the Department.

§47.21 Corrective action plan.

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Notes: The listing for §47.19 in the Table of Section Headings was amended by resolution of the Board of Health adopted XXX, adding “reports to the Department” to the section title.

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Health Code Article 47 (Infant Care Providers)

REFERENCE NUMBER: 2012 RG 014

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: March 6, 2012

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Health Code Article 47 (Infant Care Providers)

REFERENCE NUMBER: DOHMH-14

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Rachel Squire
Mayor's Office of Operations

March 6, 2012
Date