

Comments for Safe Sleep Regulations, ORD No. 0318-03 ver. 9/17/18

submitted by

The California Family Child Care Network

c/o Public Policy Chair, Nancy Wyatt

8112 Chimineas Avenue, Reseda, CA 91335, (818) 708-2354, nancywyatt@sbcglobal.net

Thank You & Our Goal:

We wish to thank the workgroup that worked so hard to develop regulations that would help to keep infants safe and healthy. While there are many comments and suggestions herein, they are mainly intended to add clarity so that regulations will be readily understood and fairly enforced. We want to support safe sleep regulations that will protect infants. Our goal is that the final regulations will add responsibilities for providers when a required practice has been responsibly researched and shown to be necessary and useful for the ages specified.

General Comments:

1. Please change the word "licensee" to "provider" wherever and whenever the regulation could prevent a licensee from allowing staff to help perform safe sleep practices.

This could be the most necessary change that you should make!

It is absolutely essential that, in addition to the licensee, these regulations allow a provider, assistant provider, substitute adult or volunteer to perform safe sleep duties.

The center regulations allow center staff to perform safe sleep duties and FCCH's should have this same privilege.

The safe sleep regulations must not prohibit the licensee from using a qualified substitute when infants are in care. Licensees must be able to go to the doctor, dentist, and pick up children from school. School age children need access to family child care. Providers must not be forced to choose between caring for infants or caring for school age children. Staff in addition to the licensee should also be allowed to perform duties related to safe sleep practices. If licensees would be personally required to do all of the bedding down, checking each 15 minutes and rolling over of infants, they would need to remain personally present at the facility whenever infants are in care. We would not wish for licensees to refuse to take infants because the safe sleep regulations would prevent them from being able to leave their facility when needed. Currently, licensing regulations accommodate licensees' needs and allow them to leave children with qualified substitutes for a limited percentage of their hours of operation.

When qualified staff or volunteers are present, they should be allowed to do the work that needs to be done to facilitate good care.

General Comments (Continued)

2. Please change the wording in these regulations wherever and whenever these regulations say something like "age 12 months or younger." This phrase include 12 month old infants and recommendations are for infants under 1 year of age.

Saying "12 months or younger" means the same thing as "under 13 months of age" and this includes one year olds who are 12 months old.

The National Sleep Foundation and many other organizations that are experts on SIDS, say that "Sudden Infant Death Syndrome (SIDS) is the unexpected, sudden death of an infant under one year of age..."
<https://sleepfoundation.org/sleep-disorders-problems/sudden-infant-death-syndrome-and-sleep>

"Safe to Sleep" a public education campaign led By Eunice Kennedy Shriver, National Institute of Health and Human Development, states that "SIDS is not a risk for babies 1 year of age or older."
<https://www1.nichd.nih.gov/sts/Pages/default.aspx>

The recommendations in the white paper submitted to D.S.S. *(recommendations list, page 8, #1) begin with the phrase "infants under the age of 12 months."

*Safe Sleep Practices and Sleep Related Infant Death Prevention Strategies in Child Care" by The Health and Safety Regulatory Workgroup, Military Child Care Initiative, September, 2012.

The AAP Guide for Out of Home Care says the following in Standard 3.1.4.1: Safe Sleep Practices and Sudden Unexpected Infant Death (SUID)/SIDS Risk Reduction: "All staff, parents/guardians, volunteers and others who care for infants in the child care setting should follow these required safe sleep practices as recommended by the American Academy of Pediatrics (AAP) (2):

Infants up to twelve months of age should be placed for sleep in a supine position (wholly on their back) for every nap or sleep time unless an infant's primary health care provider has completed a signed waiver indicating that the child requires an alternate sleep position; ..."

The wording in your INITIAL STATEMENT OF REASONS (page 16, under "Specific Purpose") for this section 102425(d) says the following:

"Specific Purpose:

- a. This section is being adopted to require licensees to place infants younger than 12 months of age on their backs while sleeping to reduce the risk of suffocation or SIDS."

Page 11, 102425 INFANT **Under 1 Year of Age** SAFE SLEEP

Page 11, 102425 (a) There shall be one crib or play yard for each infant **present** who is unable to climb out of the crib or play yard.

Comment:

1. Please add the word "present" after the word "infant."

Please allow the licensee to clean and sanitize (tell them how to sanitize) a crib or play yard before use by another child. Different infants may be in care on different days. This could allow the licensee to purchase and store fewer cribs and play yards. Space and funds are limited.

Page 11, 102425 (a)(6) ~~Each infant's bedding shall be used for him/her only. Bedding that touches a child's skin should be cleaned weekly or before use by another child.~~ Bedding that has touched an infant's skin shall not be stored with another's bedding and it shall be cleaned before use by another. Used infant sheets should be replaced with clean sheets at least weekly.

Comments:

1. Please say, "Bedding that has touched an infant's skin shall not be stored with another's bedding and it shall be cleaned before use by another. Used infant sheets should be replaced with clean sheets at least weekly."

Please remove any requirements that seem to call for the personal assignment and storage of infant sheets that are still clean.

The personal assignment and storage of *clean* sheets is not necessary to achieve the desired result of clean, healthy sheets for infants. This personal assignment adds unnecessary complications. Allowing clean infant bedding to be stored together simplifies storage and the number of storage containers and places needed. After all, these sheets have probably touched each other in the dryer.

Imagine the licensee needing to purchase additional sheets for a new child in care, while she/he already has plenty of clean sheets available, because the existing supply of clean sheets had been personally assigned to particular infants in care.

Sheet assignment is also not likely to add emotional comfort for an infant, in the way that blanket assignment or stuffed toy assignment would for older children. The infant sheet assignment would serve no purpose, health-wise or emotionally.

2. Please add "at least" before the word "weekly."

Adding "at least" allows the licensee to choose to change/laundry sheets more often than weekly if he/she chooses.

3. Please replace "or" with "and."

This would eliminate the possible interpretation that the licensee is to choose one of two options: option 1: cleaning weekly or option 2: cleaning before use by another child. A licensee could think that he/she could choose to clean sheets only before use by another child and he/she might clean used sheets less often than weekly.

4. Please do not place regulations that apply to a "child", in a section with a heading that states that it applies to infants, "102425 INFANT SAFE SLEEP."

While a regulation for bedding for all ages of children is a good idea, it is confusing to put a regulation for a child in an infant section. The following sentence from the proposed text would apply to a child and not just to infants: "Bedding that touches a child's skin should be cleaned weekly or before use by another child."

To put this regulation in a section that applies to infants, you might change the wording to this: "Bedding that has touched an infant's skin shall not be stored with another's bedding and it shall be cleaned before use by another. Used infant bedding should be replaced with clean bedding at least weekly." The point is for infants to have clean sheets and this can be accomplished with changing requirements and without specific requirements for how often laundry is done.

If you wish to create a regulation for the frequency for changing bedding for children in care that are not necessarily infants, you might put it into a section that is not headed "Infant Safe Sleep."

Page 11, 102425 (a)(7) Soiled bedding shall be placed in a suitable container and made inaccessible to infants until washed.

Comment:

1. Please consider eliminating this line as it may be unnecessary.

During hundreds of visits to family child care homes, accessible soiled infant bedding has never been seen to be a problem.

This line may invite licensing staff to cite facilities based on their personal opinions about laundry containers since "suitable" container is not defined. Would a traditional laundry container that has a closed lid and is placed in a bathroom be considered "suitable"?

Page 11, 102425 (b) (1) Pacifiers shall be excluded from section 102425 (b) if the following provisions are in place:

Comment:

1. To prevent possible misinterpretation, please simply say "Pacifiers shall be allowed if the following provisions are in place:"

When a person reads "Pacifiers shall be excluded..." it accidentally gives them the quick impression that the following provisions are going to be those that require them to exclude pacifiers. When we read the sentence to several different persons, they misinterpreted it. They do not understand that pacifier use is considered advisable in the prevention of SIDS.

Page 12, 102425 (b)(1)(A) An infant shall not be forced to take a pacifier when put down to sleep.

Comment:

1. Please eliminate this line.

We are concerned that a reasonable number of attempts to assist an infant with a pacifier could be misinterpreted as forcing. Providers could become afraid to offer pacifiers.

Page 12, 102425 (c) An Individual Infant Sleeping Plan [LIC 9227 (6/18)] shall be completed for each infant **under 1 year of age** ~~12 months of age and younger~~ the licensee has in care and maintained at the facility in the child's record.

Comment:

1. If you do require form LIC 9227, please add a line instructing the licensing staff not to be overly concerned if the pacifier being used is a different brand than the brand specified on the form.

We fear that FCCH's will be unfairly cited if the pacifier being used by the child's family is no longer the same brand as the pacifier that was used when the form was completed.

2. If you do require form LIC 9227, please add a line to the form instructing licensing staff not to be overly concerned if the infant is not sleeping at the same times that are specified on the form at the time the form was completed.

Sleeping times for an infant can change daily and patterns usually change often. Sleeping times at home often differ from sleeping times at the facility because busy parents find it difficult to offer a regular opportunity for napping. Differences would be normal and are to be expected.

3. Please say "infant under 1 year of age"

Please see "General Comments (Continued)" #2 on the second page.

Page 12, 102425 (d) The licensee **provider** shall place infants age **under 1 year of age** ~~12 months or younger~~ on their backs for sleeping.

Comments:

1. Please replace the word "licensee" with the word "provider."

It is absolutely essential that, in addition to the licensee, these regulations allow a provider, assistant provider, substitute adult or volunteer to perform safe sleep duties.

Please see "General Comments" #1 on the first page.

2. Please change the words to "under 1 year of age."

Please see "General Comments (Continued)" #2 on the second page.

The AAP Guide for Out of home Care says the following in Standard 3.1.4.1: Safe Sleep Practices and Sudden Unexpected Infant Death (SUID)/SIDS Risk Reduction:

"All staff, parents/guardians, volunteers and others who care for infants in the child care setting should follow these required safe sleep practices as recommended by the American Academy of Pediatrics (AAP) (2):

- b. Infants up to twelve months of age should be placed for sleep in a supine position (wholly on their back) for every nap or sleep time unless an infant's primary health care provider has completed a signed waiver indicating that the child requires an alternate sleep position;

The wording for this section 102425(d) in your INITIAL STATEMENT OF REASONS document (page 16, under "Specific Purpose") are "infants younger than 12 months."
"Specific Purpose:

- c. This section is being adopted to require licensees to place infants younger than 12 months of age on their backs while sleeping to reduce the risk of suffocation or SIDS."

Page 12, 102425 (e) Infants shall not be forced to sleep, stay awake, or stay in the sleeping area.

Comments:

1. Please delete this line because the word "forced" could be misinterpreted.

The word "forced" is open to misinterpretation and could lead to unreasonable citations. Any actions that we can imagine that could clearly be considered to be forcing an infant to sleep (drugs, gas, smothering) are already absolutely prohibited and considered to be child abuse. Therefore, we are concerned that this regulation invites licensing staff to cite FCCH's for doing what we consider to be ordinary and normal actions, and interpreting these actions to be forcing an infant to sleep.

Providers should not be afraid to put a resisting infant to sleep. It is normal for infants to resist sleeping, even when they are in great need of sleep. Let providers pace the floor with infants, rock infants and sing them lullabies when they need to sleep. This would be in infants' best interest and will help them to be healthy and get the sleep needed to develop their bodies and brains.

2. Please delete this line because sleeping areas in family child care homes are often the same areas that are used for awake children.

Providers working alone and providers with assistants can best supervise sleeping infants when infants sleep in the room being used by the other children in care. The area that is also used as a sleeping area is often the safest place for an infant to stay.

Page 13, 102425 (h) If an infant falls asleep before being placed in a crib or play yard, the licensee **provider** shall move the infant to a crib or play yard as soon as possible. Providers may hold infants in their arms while sleeping if needed but must ensure that soft objects that pose a risk of injury or can cause suffocation are not near the infant's face.

Comments:

1. Please add the recommendation from the 2012 white paper that allows providers to nurture and safely hold sleeping infants.

Allowances for holding infants are included in the white paper submitted to D.S.S., " Safe Sleep Practices and Sleep Related Infant Death Prevention Strategies in Child Care" by The Health and Safety Regulatory Workgroup, Military Child Care Initiative, September, 2012. In this white paper, the recommendations list (page 8, #2, 3rd sentence) says, "Providers may hold infants in their arms while sleeping if needed but must ensure that soft objects that pose a risk of injury or can cause suffocation are not near the infant's face."

Sometimes, infants are teething or their stomachs are not mature or their new skin is itchy and they are uncomfortable and holding them helps them to sleep.

Sometimes, infants are having trouble separating from their parents and holding them helps them feel secure enough to sleep.

Sometimes, infants and providers simply are both emotionally nurtured when sleeping infants are held safely.

2. Please say "provider" instead of "licensee."

Please see "General Comments" #1 on the first page.

Page 3, 102425 (i) and (i)(1)

(i)The licensee A provider shall supervise infants under 1 year of age while they are sleeping and adhere to the following requirements:

(1) The licensee shall physically check on the infant under 1 year of age every 15 minutes.

Comments:

1. Please change the wording in (i) and (i) (1) from "infant(s)" to "infants under 1 year of age."

Recommendations to check infants every 15 minutes for SIDS or SUIDS should be for infants under 1 year old.

AAP and SIDS safe sleep recommendations are for infants under 12 months old.

Remember that California Health and Safety Codes and Title 22 regulations define an infant as under age 2 years, but the groups and organizations making recommendations that you wish to incorporate are defining an infant as under 12 months of age.

2. Please change the wording to allow qualified staff and volunteers to help with safe sleep responsibilities: (i) The licensee A provider shall supervise infants while they are sleeping and adhere to the following requirements:

Comments:

Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (1) ~~The licensee~~ A provider shall physically check on the infant every 15 minutes.

Comments:

Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (2) ~~The licensee~~ A provider shall check for the following:

Comments:

Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (2)(C) Infants under 1 year of age ~~age 12 months or younger~~ who are sleeping in a position other than on their back.

Comments:

1. Please say " under 1 year of age."

Please see "General Comments (Continued)" #2 on the second page.

Page 13, 102425 (i) (2) (C) 1. If the infant's Individual Infant Sleeping Plan [LIC 9227 (6/18)] does not have Section C completed, ~~the licensee~~ a provider shall return them to their back for sleeping.

Comments:

Please see "General Comments" #1 on the first page.

Page 13, 102425 (i)(3) If ~~the licensee~~ a provider observes any of the indicators referenced in subsection (2) (A) or (B) above, the ~~licensee~~ provider shall do the following:

Comments:

Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (4) ~~The licensee~~ A provider shall be near enough to the sleeping infant to be able to hear them wake up.

Comments:

Please see "General Comments" #1 on the first page.

Page 13, 102425 (i) (5) If the infant is sleeping in a separate room from where the ~~licensee~~ provider is stationed, the door to the room where the infant is sleeping shall remain open at all times.

Page 14, 102425 (i) (5)(A) ~~The licensee~~ A provider shall be able to visually observe the infant without moving the door.

Comments:

Please see "General Comments" #1 on the first page.

Page 14, 102425 (i)(6) ~~The licensee~~ At least one provider shall be on the same floor as the sleeping infant.

Comments:

1. Allow FCCH's to use bathrooms or kitchens when these are not located on the floor where infants are sleeping or eliminate this line.

Providers need to be able to use kitchens for sanitary food and bottle preparation. Providers should be allowed to use a bathroom while infants are sleeping. Homes may have bathrooms and kitchens on floors that do not offer good sleeping areas for infants. Tri-level homes may have kitchens or bathrooms a few steps below or above the room where infants sleep.

2. Please replace the word "licensee" with "provider."

"Please see "General Comments" #1 on the first page.

Page 15, 102426 OVERNIGHT CARE

Page 15, 102426 (a) To provide overnight care, the licensee **shall ensure that meet** the following requirements **are met**:

Page 15, 102426 (a)(1) ~~The licensee~~ **A provider** shall remain awake whenever children are awake.

Comments:

Please see "General Comments" #1 on the first page.

Page 15, 102426 (a)(2) The door to the room where ~~the licensee~~ **a provider** is sleeping as well as the door to the room where the children in care are sleeping shall remain open.

Comments:

Please see "General Comments" #1 on the first page.

Page 15, 102426 (a)(3) If the sleeping arrangements are not situated in such a way that ~~the licensee~~ **a provider** can be assured of hearing a child wake up, a monitor system shall be used.

Comments:

Please see "General Comments" #1 on the first page.

Page 15, 102426 (a) (3) (B) The monitor may be used in place of physically checking the infant every 15 minutes if infant is sleeping and **a provider** ~~the licensee~~ is going to sleep.

Comments:

Please see "General Comments" #1 on the first page.

Page 15, 102426 (a) (5)(A) ~~The licensee~~ **A provider** shall be able to visually observe the infant without moving the door.

Comments:

1. Please eliminate this line.

Please understand the way homes are designed and realize that it will often be impossible to position a door in such a way that it will make it possible for a provider to see into a room where an infant is sleeping. Most bedroom doors are next to hallways that require people to stand in the doorway in order to see into the room.

Repositioning the room door will usually not make it possible for a provider to see the infant inside the room from whatever room in which the provider is located.

2. Please change "licensee" to "provider."

Please see "General Comments" #1 on the first page.

Clean and Sanitized Pacifiers:

1. Please consider adding requirements for the providers to clean and sanitize pacifiers before they are used.

Comment:

A clean pacifier is even more important than a freshly laundered sheet. It goes into the child's mouth where germs would be easily transmitted.

Complying with Safety Instructions on Cribs and Play Yards:

1. Please consider adding requirements for providers to comply with safety instructions written on cribs and play yards.

Cribs and play yards often have safety instructions written on them that are specific to that product and necessary for the safety of infants. For example, play yards often specify that the mattress is to be secured and explain how the mattress must be secured (snapped straps, etc.). Sometimes, cribs have instructions on them that require mattresses to be in the lowest position when children can stand up. Sometimes, cribs specify that the sides must be up when the crib is in use.