

























## §742.307. What additional responsibilities do primary caregivers have?

Primary caregivers are also responsible for:

- (1) Initiating background checks on caregivers, household members, and anyone else who requires a background check, as specified in Chapter 745, Subchapter F of this title (relating to Background Checks) [High];
- (2) Obtaining from parents, when admitting a child into care:
  - (A) The child's name and date of birth [Medium-High];
  - (B) The parent's home address and telephone number [Medium-High];
  - (C) The names of other persons the child may be released to [High];
  - (D) A list of each food the child is allergic to, possible symptoms if the child is exposed to the food, and the steps to take if the child has an allergic reaction [Medium-High]; and
  - (E) Authorization to give the child medication, if applicable [Medium-High];
- (3) Ensuring the following regarding the number of children in care at the home or away from the home:
  - (A) The number of children not related to the primary caregiver never exceeds three [High]; and
  - (B) The total number of children, both related and not related to the primary caregiver, never exceeds 12 [High]; and
- (4) Ensuring parents can visit your home any time during the hours of operation to observe their child, without having to secure prior approval. [Medium]

### Helpful Information

- Regarding paragraph (3)(A), if you do not always provide care to the same unrelated children, you should maintain a schedule specifying when you care for each child to ensure that you do not exceed the capacity of three unrelated children in care at any given time.
- Regarding paragraph (4), if a parent is visiting their child during the hours of operation, the caregiver must continue to meet the needs of all children in care.

## Subchapter D: Notification of Liability Insurance Requirements

### §742.401. What are the notification requirements?

- (a) A caregiver must notify the Department of Family and Protective Services immediately at 1-800-252-5400 if:
- (1) There is any suspected abuse, neglect, or exploitation [High];
  - (2) A child dies while in your care [High]; or
  - (3) A child was forgotten in a vehicle or wandered away from your home or care unsupervised. [High]
- (b) You must notify Licensing immediately if you become aware that a household member, caregiver, or child in care contracts an illness deemed notifiable by the Texas Department of State Health Services. [Medium-High]
- (c) After you ensure the safety of the child, you must notify the parent immediately if the child:
- (1) Is injured and the injury requires medical treatment by a health-care professional or hospitalization [Medium-High];
  - (2) Shows signs or symptoms of an illness that requires hospitalization [Medium-High]; or
  - (3) Has had an emergency anaphylaxis reaction that required administration of an unassigned epinephrine auto-injector [High]; or
  - (4) Was forgotten in a vehicle or wandered away from your home or care unsupervised. [Medium-High]
- (d) You must notify the parent of a child of less serious injuries when the parent picks the child up from the home. Less serious injuries include, minor cuts, scratches, and bites from other children requiring first aid treatment by caregivers. [Medium]

- (e) You must notify the parent of each child attending the home in writing within 48 hours after you become aware that a household member, caregiver, or child in care contracts an illness deemed notifiable by the Texas Department of State Health Services [Medium]; or
- (f) You must notify Licensing in writing within 15 days of:
  - (1) Relocating your listed family home; or
  - (2) Closing the home.

### **§742.403. What are the liability insurance requirements?**

Unless you have an acceptable reason not to have the insurance, you must:

- (1) Have liability insurance coverage:
  - (A) Of at least \$300,000 for each occurrence of negligence [Medium]; and
  - (B) That covers injury to a child that occurs while the child is in your care, regardless of whether the injury occurs on or off the premises of your home [Medium]; and
- (2) Provide proof of coverage to Licensing each year by the anniversary date of the issuance of your permit to operate a listed family home. [Medium]

### **§742.405. What are acceptable reasons not to have liability insurance?**

- (a) You do not have to have liability insurance that meets the requirements of §742.403 of this subchapter (relating to What are the liability insurance requirements?) if you are unable to carry the insurance because:
  - (1) Of financial reasons;
  - (2) You are unable to locate an underwriter who is willing to issue a policy to the home; or
  - (3) You have already exhausted the limits of a policy that met the requirements.

(b) If you are unable to carry the liability insurance or stop carrying the insurance because of a reason listed in subsection (a) of this section, you must send written notification to Licensing by the anniversary date of the issuance of your permit to operate a listed family home. Your notification must include the reason that you are unable to carry the insurance. [Medium]

## **§742.407. When must I notify parents that I do not carry liability insurance?**

- (a) If you do not carry liability insurance that meets the requirements of §742.403 of this subchapter (relating to What are the liability insurance requirements?), then you must notify a child’s parent in writing that you do not carry liability insurance before you admit a child into your care. [Medium-High]
- (b) If you received your permit to operate a listed family home before April 25, 2021, and cannot obtain the liability insurance by that date, then you must notify the parents of children in your care that you do not carry the insurance by May 25, 2021. [Medium-High]
- (c) If you previously carried the liability insurance and you subsequently stop carrying the liability insurance, then you must notify the parent of each child in your care that you do not carry the insurance, in writing, within 30 days after you stop carrying it. [Medium-High]
- (d) You may use Form 2962, Attachment A, Parental Notification of Lack of Required Liability Insurance, located on Licensing’s provider website to notify parents. Regardless of whether you use this form, you must be able to demonstrate that you provided written notice to the parent of each child in your care.

### **Helpful Information**

It is important that parents both understand and acknowledge whether your home carries liability insurance. Possible means of communicating this requirement include:

- Utilizing a form specific to liability insurance, including Form 2962, Attachment A, which requires a parent signature that you maintain in the child’s file; or
- Maintaining a copy of any electronic communication sent to a parent regarding liability insurance, including the date and address to which the communication was sent.

## Subchapter E: Basic Care Requirements

### §742.501. What are the basic care requirements for an infant?

Basic care for an infant must include:

- (1) Giving individual attention to the infant including, playing, talking, cuddling, and holding [Medium-High];
- (2) Holding and comforting the infant when the infant is upset [Medium-High];
- (3) Giving prompt attention to the physical needs of the infant, such as feeding and diapering [Medium-High];
- (4) Talking to the infant while you are feeding, changing, and holding the infant, such as naming objects, singing, or saying rhymes [Medium-High];
- (5) Storing objects that could cause choking (objects that are less than 1 and 1/4 inches in diameter) out of the infant's reach [High];
- (6) Providing or having the parent provide an individual crib or play yard (also known as a play pen) for each non-walking infant younger than 12 months of age to sleep in [Medium-High]; and
- (7) Providing or having the parent provide an individual cot, bed, or mat that is waterproof or washable for each walking infant to sleep or rest on. [Medium]

#### Helpful Information

- Regarding paragraph (2), the American Academy of Pediatrics (AAP) recommends that caregivers always respect the wishes of children, regardless of their ages, with regard to physical contact and their comfort/discomfort with it. If a child indicates that the child does not wish to be held or comforted, even "friendly contact" with a child should be avoided.
- Regarding paragraph (5), you can store objects, materials, and toys less than 1 and 1/4 inches in diameter in places where children of certain age groups may not have access to them. Examples of items that present a choking hazard for infants include coins, balloons, safety pins, marbles, Styrofoam® and similar products, and sponge, rubber, or soft plastic toys.

## §742.503. What safety requirements must my cribs meet?

- (a) Each crib or play yard (also known as a play pen), whether provided by the home or the child’s parent, must have a firm, flat mattress that the manufacturer designed specifically for the crib or play yard model number that snugly fits the sides of the crib or play yard. You may not supplement the mattress with additional foam material or pads. [High]
- (b) Each crib or play yard must be bare for an infant younger than 12 months of age, except for a tight-fitting sheet and a mattress cover to protect against wetness. [High] The mattress cover, whether provided by the home or the parent, must:
- (1) Be designed specifically for the size and type of crib and crib mattress that the cover is being used with [Medium-High];
  - (2) Be tight fitting and thin [Medium-High]; and
  - (3) Not be designed to make the sleep surface softer. [High]

### Helpful Information

- Research shows more babies die in incidents involving cribs than with any other piece of nursery equipment.
- A mattress is too small if there are more than two fingers width between the edge of the mattress and the crib side.

## §742.505. What types of sleeping equipment am I prohibited from using with infants?

- (a) You may not use a bean bag, waterbed, or a foam pad as sleeping equipment for an infant. [High]
- (b) An infant may not sleep in a restrictive device, unless you have a signed statement from a health-care professional stating that it is medically necessary for the infant to sleep in a restrictive device. If an infant falls asleep in a restrictive device, you must remove the infant from the device and place the infant in a crib as soon as possible. [High]

## Helpful Information

Regarding subsection (b):

- An infant sleeping in a restrictive device is at risk for strangulation, injury, and positional asphyxiation. Documentation from a health-care professional is required for an infant to sleep in a restrictive device.
- If an infant arrives at your home asleep in a car seat, you must remove the infant from the car seat and place the infant in a crib. You must not place the car seat in the crib with the sleeping infant.

## §742.507. What additional requirements apply when an infant is sleeping or resting?

- (a) You must place an infant who is not yet able to turn over without assistance in a face-up sleeping position, unless you have a signed statement from a health-care professional stating that it is medically necessary for the infant to sleep in a different sleeping position. [High]
- (b) You may not lay a swaddled infant down to sleep or rest on any surface at any time, unless you have a signed statement from a health-care professional stating it is medically necessary for the infant to be swaddled while the infant is sleeping. [High]
- (c) An infant's head, face, or crib must not be covered by items such as blankets, linens, or clothing at any time. [High]

## Helpful Information

Regarding subsection (a):

- Sudden Infant Death Syndrome (SIDS), the sudden and unexplained death of an infant, is the major cause of death in babies between 1 and 4 months old. After 30 years of research, scientists still cannot find a cause for SIDS. However, research has found the risk of SIDS may be reduced by placing a healthy infant on his or her back to sleep.
- If the infant was born with a birth defect, often spits up after eating, or has a breathing, lung, or heart problem, a health-care professional may recommend a different sleeping position.

## §742.509. What are the basic care requirements for a toddler?

Basic care for a toddler must include:

- (1) Giving individual attention to the toddler, including playing, talking, cuddling, and holding [Medium-High];
- (2) Holding and comforting a toddler when the toddler is upset [Medium-High];
- (3) Maintaining routines, such as feeding, diapering, sleeping, and indoor and outdoor play during the same time each day, as closely as possible [Medium];
- (4) Storing objects that could cause choking (objects that are less than 1 and 1/4 inches in diameter) out of the toddler's reach [High]; and
- (5) Providing, or having the parent provide, an individual cot, bed, or mat that is waterproof or washable for each toddler to sleep or rest on. [Medium-High]

### Helpful Information

- Regarding paragraph (2), the American Academy of Pediatrics recommends that the wishes of children, regardless of their ages, should always be respected with regard to physical contact and their comfort/discomfort with it. If a child indicates that the child does not wish to be held or comforted, even "friendly contact" with a child should be avoided.
- Regarding paragraph (4), you can store objects, materials, and toys less than 1 and 1/4 inches in diameter in places where children of certain age groups may not have access to them. Examples of items that present a choking hazard for infants include coins, balloons, safety pins, marbles, Styrofoam© and similar products, and sponge, rubber, or soft plastic toys.

## §742.511. What are the basic care requirements for a pre- kindergarten age child?

Basic care for a pre-kindergarten age child must include:

- (1) Giving individual attention to the child [Medium];
- (2) Encouraging the child to communicate and express feelings in appropriate ways [Medium]; and
- (3) Providing, or having the parent provide, an individual cot, bed, or mat that is waterproof or washable for each toddler to sleep or rest on. [Medium]

### Helpful Information

The American Academy of Pediatrics offers these examples for encouraging children to communicate, “Ask Johnny if he will share the book.” “Tell him you don’t like being hit.” “Tell Sarah what you saw at the store yesterday.” “Tell mommy about what you built in the block center this morning.” Follow these

encouraging statements with respectful listening, without pressuring the child to speak.

## §742.513. What are the basic care requirements for a school-age child?

Basic care for a school-age child must include:

- (1) Giving individual attention to the child [Medium];
- (2) Encouraging the child to converse with adults [Medium]; and
- (3) Providing physical care routines that are appropriate to the child’s developmental needs. [Medium]

### Helpful Information

A school-age child develops a strong, secure sense of identity through positive experiences with adults and peers. Although a school-age child is learning to accept personal responsibility and act independently, the child continues to need the supervision and support of adults.

## Subchapter F: Discipline and Guidance

### §742.601. What methods of discipline and guidance may I use?

Discipline and guidance must be:

- (1) Individualized and consistent for each child [Medium-High];
- (2) Appropriate to the child's level of understanding [Medium];
- (3) Directed toward teaching the child acceptable behavior and self-control [Medium-High]; and
- (4) A positive method of discipline and guidance that encourages self-esteem, self-control, and self-direction, including: [Medium-High]
  - (A) Using praise and encouragement of good behavior instead of focusing only upon unacceptable behavior [Medium-High];
  - (B) Reminding a child of behavior expectations daily by using clear, positive statements [Medium-High];
  - (C) Redirecting behavior using positive statements [Medium-High]; and
  - (D) Using brief supervised separation or time out from the group, when appropriate for the child's age and development, which is limited to no more than one minute per the year of the child's age. [Medium]

#### Helpful Information

- Research has shown that positive guidance teaches children skills that help them get along in their physical and social environment. The goal is to develop personal standards in self-discipline, not to enforce a set of inflexible rules.
- Giving children understandable guidelines and re-directing their behavior helps them to develop internal control of their actions and encourages acceptable behavior.

## §742.603. What types of punishment, discipline, or guidance are prohibited?

(a) You may not use or threaten to use corporal punishment with any child in care. Corporal punishment is the infliction of physical pain on a child as a means of controlling or managing behavior, including hitting or spanking a child with a hand or an instrument or slapping or thumping a child. [High]

(b) In addition to corporal punishment, prohibited discipline or guidance techniques include:

- (1) Any harsh, cruel, or unusual treatment of any child [High];
- (2) Punishment associated with food, naps, or toilet training [High];
- (3) Pinching, shaking, or biting a child [High];
- (4) Putting anything in or on a child's mouth [High];
- (5) Humiliating, ridiculing, rejecting, or yelling at a child [High];
- (6) Subjecting a child to harsh, abusive, or profane language [High];
- (7) Placing a child in a locked or dark room, bathroom, or closet [High]; and
- (8) Requiring a child to remain silent or inactive for inappropriately long periods of time for the child's age, including requiring a child to remain in a restrictive device. [High]

### Helpful Information

- Child development research supports that physical punishment such as pinching, shaking, or hitting children teaches them that hitting or hurting others is an acceptable way to control unwanted behavior or get what they want.
- Children will also mimic adults who demonstrate loud or violent behavior.

## Subchapter G: Nutrition and Food

### §742.701. What are the basic food requirements?

- (a) You must offer a child a meal or snack every three hours, unless the child is sleeping. [Medium-High]
- (b) Parents may provide meals and snacks for their children instead of you providing them.
- (c) You must ensure a supply of drinking water is always available to each child. You must serve water at every snack, mealtime, and after active play. [Medium-High]
- (d) All food and drinks must be of safe quality. You must store, prepare, distribute, and serve food and drinks under sanitary and safe conditions. [Medium-High]
- (e) You must not use food as a reward. [Medium-High]

#### Helpful Information

- Meals and snacks should follow the meal patterns established by the U.S. Department of Agriculture Child and Adult Care Food Program that is administered by the Texas Department of Agriculture.
- Research indicates serving drinking water to children ensures they are properly hydrated and facilitates reducing the intake of extra calories from nutrient poor foods and drinks, which are associated with weight gain and obesity.
- Water should not be a substitute for milk at meals or snacks. It is appropriate to require children to first drink the milk before serving themselves water.
- Beverages with added sugars should be avoided because they can contribute to child obesity, tooth decay, and poor nutrition.

### **§742.703. How should I care for a child with a food allergy?**

- (a) If the child has a food allergy, you must ensure the child does not have access to foods that will cause an allergic reaction. [Medium-High]
- (b) If a child shows symptoms of an allergic reaction, you must follow the steps to be taken for an allergic reaction that the parent provided at admission. [Medium-High]

## Subchapter H: Health and Safety Practices

### §742.801. How do I ensure a healthy environment for children at my home?

- (a) You must clean, repair, and maintain your listed family home, grounds, pool, hot tub, and equipment to protect the health safety of the children in your care, [Medium-High] including:
  - (1) Keeping all parts of your listed family home used by children well heated, lighted, and ventilated [Medium-High];
  - (2) Having at least one working sink and flushing toilet in the home [Medium-High]; and
  - (3) Sanitizing toys and equipment that are placed in a child's mouth or are otherwise contaminated by food, body secretions, or excrement. [Medium-High]
- (b) You must clearly mark cleaning supplies and hazardous materials and ensure that they are inaccessible to children. [Medium-High]
- (c) Caregivers should wash their hands and children's hands often. [Medium-High]
- (d) All areas accessible to a child must be free from hazards. [Medium-High]
- (e) During operating hours, people must not consume or be under the influence of alcohol or controlled substances in the home, during transportation, or on field trips. [High]
- (f) During operating hours, people must not smoke any e-cigarette, vaporizer, or tobacco product or otherwise use any tobacco product in your home, in the garage, on the playground, in transportation vehicles, or during field trips. [High]

## Helpful Information

- Regarding pools and hot tubs in subsection (a), the more inaccessible pools and hot tubs are to children the safer they are, including having:
  - A fence or wall around the pool;
  - Fence gates that are self-closing and self-latching locks that are out of the reach of children;
  - A lock on the doors that are leading from the home to the pool area that are out of the reach of children and can only be opened by an adult; and
  - A cover for any hot tub.
- Regarding cleaning in subsection (a), when using a disinfecting solution, you should follow the labelling instructions. If there are no instructions, you should sanitize by:
  - Washing with water and soap;
  - Rinsing with clear water;
  - Soaking in or spraying on a disinfecting solution (a bleach product, for example) for at least two minutes (rinsing with cool water, only those items that children are likely to place in their mouths); and
  - Allowing the surface or item to air-dry.
- Regarding subsection (c):
  - Research has shown the single most effective practice that prevents the spread of germs in the child-care setting is good hand washing by caregivers and children.
  - The children in your care learn good health and safety practices when you model hand washing and cleaning routines.
  - It is a best practice to require all children to wash their hands immediately upon entering your home. It is also a best practice to require all parents visiting your home to wash their hands upon entering. Studies have shown an increase in overall health in a child-care setting when programs eliminate the transmission of germs from the child's home environment to the child-care setting by requiring hand hygiene for all entering the child-care home.
  - Rubbing hands together under running water is the most important part of

## Helpful Information

washing away infectious germs. Inappropriate hand washing, including sharing basins of water, have contributed to many outbreaks of diarrhea among children and caregivers in child-care settings.

- The Centers for Disease Control recommends these hand washing steps:
  - Wet your hands with clean running water and apply soap;
  - Rub your hands together to make lather and scrub them well, and be sure to scrub the backs of your hands, between your fingers, and under your nails;
  - Continue rubbing your hands for at least 20 seconds (tip: hum the “Happy Birthday” song twice);
  - Rinse your hands well under running water; and
  - Dry your hands using a clean towel or air dry.

## §742.803. What are the medication requirements?

(a) Medication in this chapter means:

(1) A prescription medication; or

(2) A non-prescription medication, excluding topical ointments such as diaper ointment, insect repellent, or sunscreen.

(b) Before you may give medication to a child in care, the child’s parent must authorize you to give the medication to the child. [Medium-High] The authorization must be:

(1) In writing, signed, and dated [Medium-High];

(2) In an electronic format that is capable of being viewed and saved [Medium-High]; or

(3) By telephone to administer a single dose of a medication. [Medium-High]

(c) You must administer medication as required on the medication’s label instructions, unless amended in writing by the prescribing health-care professional. [High]

(d) Parental authorization to give medication is only good for one year. The child's parent must give you a new authorization in order for you to continue giving the child medication after the year expires. [Medium-High]

(e) You may administer medication to a child without parental authorization in a medical emergency to prevent the death or serious bodily injury of the child. [High]

### **§742.805. How should I respond to an illness or injury that requires the immediate attention of a health-care professional?**

If a child in your care requires the immediate medical attention of a health-care professional, you must contact emergency medical services or take the child to the nearest emergency room after you have ensured the supervision of the other children in the home. [High]

### **§742.806. What are the requirements if my home chooses to maintain and administer unassigned epinephrine auto-injectors?**

If your home maintains and administers unassigned epinephrine auto-injectors to use when a child in care has an emergency anaphylaxis reaction, you must adopt and implement a written policy that complies with the unassigned epinephrine auto-injector requirements set by the Texas Department of State Health Services, as specified in 25 TAC Chapter 40, Subchapter C (relating to Epinephrine Auto-Injector Policies in Youth Facilities) and Texas Health and Safety Code §773.0145. [High]

#### **Helpful Information**

DSHS requirements for the maintenance and administration of unassigned epinephrine auto-injectors include requirements for:

- Training;
- Storage;
- Administration;
- Disposal;
- Reporting; and
- Parental notification of policies.

You can find more information about these requirements, as well as definitions pertaining to anaphylaxis, at [Allergies and Anaphylaxis, Epinephrine Auto-Injector Policies in Youth Facilities](#), and in the [CCR Technical Assistance Library](#).

## §742.807. What are the water activity and swimming requirements?

- (a) You must maintain constant and active supervision when a child is in or around water. [High]
- (b) When an infant or toddler is taking part in a water activity, there must always be one caregiver for each infant or toddler who is wading, bathing, or swimming. [High]
- (c) You must take precautionary measures to protect the safety of a non-swimmer of any age. [High]
- (d) You must not allow children to swim in a lake, pond, river, or similar body of water. [High]
- (e) You may allow children to wade in a wading pool of less than two feet of water if you are present and have completed an online water safety course. Otherwise, you may allow children to swim or wade in a swimming pool or wading pool only if a lifeguard is on duty. [High]

### Helpful Information

Regarding subsection (c), precautionary measures for non-swimmers may include greater supervision, a life vest, and a flotation device.

## §742.809. What are the transportation requirements?

- (a) You must account for all children exiting a vehicle before leaving the vehicle unattended. [High]
- (b) You must abide by all state laws, [Medium-High] including:
  - (1) Never leaving a child unattended in a vehicle [High];
  - (2) Always using a child safety seat system (an infant safety seat, rear-facing convertible safety seat, forward facing safety seat, booster seat), safety vest, harness, or safety belt, as appropriate to the child's age, height, and weight and according to the manufacturer's instructions, for children as required by law [Medium-High];
  - (3) Always using a safety belt for adults [Medium-High]; and
  - (4) Requiring the driver while transporting children to:

- (A) Have proof of automobile liability insurance [Medium]; and
- (B) Carry a current driver's license. [Medium-High]

## **§742.811. What type of emergency preparedness plan must I have?**

- (a) You must have an emergency preparedness plan that addresses the types of emergencies most likely to occur in your area, including:
  - (1) An evacuation of your home to a designated safe area in an emergency such as a fire or gas leak [Medium-High];
  - (2) A relocation of the children and caregivers to a designated, alternate shelter in an emergency such as a flood, a hurricane, medical emergency, or communicable disease outbreak [Medium-High]; and
  - (3) The sheltering and lock-down of children and caregivers within your home to temporarily protect them from situations such as a tornado, volatile person on the premises, or an endangering person in the area. [Medium-High]
- (b) You must practice the emergency preparedness plan on a routine basis.

### **Helpful Information**

- You should conduct fire drills once a month, weather drills four times a year, and lock-down drills four times a year.
- It is helpful to have an emergency evacuation and relocation diagram of your home showing:
  - A floor plan of your home;
  - Two exit paths from each room, unless a room opens directly to the outside ground floor;
  - The designated location outside where the adults and children will meet to ensure everyone has exited the home safely; and
  - The designated location inside the home where the adults and children will take shelter from threatening weather.

## **§742.813. What are the Fire Safety Requirements?**

- (a) Your home must have a fire extinguisher that is serviced according to the manufacturer's instructions, or as required by the state or local fire marshal. [High]
- (b) Your home must have a smoke detector and you must replace the batteries annually. [High]
- (c) If your home uses gas or propane or your garage is directly connected to your home, then your home must have a carbon monoxide detector and you must replace the batteries annually. [High]