

# **COMMITTEE ON LICENSING STANDARDS**

**Interim Report on Child Deaths in Illegal Child-  
Care Operations**

**April 2009**

# Table of Contents

Background.....	3
Activities .....	4
Interim Findings .....	5
Recommendations.....	6
Conclusion.....	6
Appendix A .....	7
Appendix B .....	9
Appendix C .....	10

# Background

Senate Bill 758, passed by the 80<sup>th</sup> Texas Legislature created the Committee on Licensing Standards to make recommendations to the Legislature and the Department of Family and Protective Services (DFPS) for policy and statutory changes relating to licensing standards and facility inspections. Specifically, the Committee on Licensing Standards is charged with reviewing and analyzing information provided by DFPS and Committee members, including a review and analysis of the deaths of children in substitute care, types of licensing violations by risk, details of administrative reviews and appeals, and the type and quality of technical assistance provided.<sup>1</sup> For more information on the regulatory authority of the Child Care Licensing Division and the types of child care businesses regulated, please refer to Appendices A and B.

The Committee on Licensing Standards is composed of seven members appointed by the Governor and membership is varied across a comprehensive range of disciplines as outlined in statute. The Committee is to meet at the call of the presiding officer and report its findings and recommendations on December 1<sup>st</sup> of each year. The membership of the Committee is as follows:

***Presiding Officer***

**Karyn Purvis, Ph.D.**

Fort Worth, Texas

Director, Texas Christian University Institute of Child Development

***Members***

**Dan Adams**

Amarillo, Texas

President and CEO of Cal Farley's Boys Ranch and Cal Farley's Boys Ranch Foundation

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<sup>1</sup> Statute §42.0221 Human Resources Code:

The committee shall review and analyze the information provided by the department and committee members and shall make recommendations for policy and statutory changes relating to licensing standards and facility inspections. The review and analysis by the committee shall include the analysis of:

The deaths of children who are in substitute care, including reports and findings of child fatality review teams under Subchapter F, Chapter 264, Family Code;

The types of licensing violations for each weighted risk and region;

The details of administrative reviews and appeals; and

The type of technical assistance provided and the qualifications of those providing technical assistance.

The committee shall report its findings and recommendations to the department and the legislature not later than December 1 of each year.

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## Activities

Soon after their appointments, the Committee had their first meeting on November 25, 2008. A report was made to the Legislature as required on December 1<sup>st</sup> 2008. However, that report was largely an announcement of the members and their backgrounds, as the Committee had not begun to examine the charges before them. The Committee determined that they would not wait a year before issuing a substantive report and decided to review and provide an interim report on certain child fatalities for children in substitute care, the first charge.

Since its December 2008 meeting, the Committee has held three additional meetings: one in person on January 7, 2009 in Austin; one by phone on February 19, 2009; and one in person on March 23, 2009 in Amarillo. At these meetings, the Committee has reviewed trends in the following areas:

- minimum standard deficiencies across the different child-care industries regulated by Child Care Licensing;
- voluntary and involuntary closures of child-care facilities and child-placing agencies;
- corrective and adverse actions taken against child-care facilities and child-placing agencies;
- investigation conclusions;
- the issuance of waivers and variances for minimum standards;

- the conclusion of administrative reviews of Child Care Licensing findings (the DFPS internal dispute resolution process); and
- the deaths of children in child-care.

It is on this last category of child deaths that the Committee has focused its recent analysis, reviewing all deaths of children over the last five years.

## Interim Findings

After a preliminary review of trends in Child Care Licensing, there was one trend in particular that stood out as an obvious and tragic pattern requiring urgent attention. In reviewing the child deaths that occurred between Fiscal Years 2004 and 2008, the Committee found that an alarming number of infants died in child care operations that were not registered or licensed.

Child Care Licensing is legislatively charged with ensuring that children are safe in out-of-home care through the development of standards for child care and regulation of child care operations to enforce those standards. Child Care Licensing finds that too often, children are left in child care that is not regulated and operates illegally. Efforts are made through public education and investigations of complaints to locate illegal operations and ensure that they are aware of the need to be licensed, but those efforts are often unsuccessful since some parents and child care providers do not want to be hindered or required to meet standards.

In reviewing the deaths of children that occurred between FY 2004 and FY 2008, the Committee discovered that a significant number of the deaths that occurred were in illegal day care operations. Fifty-eight children died in child day care home-based settings that were operating illegally.<sup>2</sup> In reviewing these deaths, the findings showed:

- 76% of the children who died in illegally operating child day care were children under 1 year old;
- 34% of the children who died in illegally operating child day care died of SIDS; and
- Sleeping conditions were a factor in 33% of the child deaths in illegal child day care operations.

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<sup>2</sup> Chapter 42 of the Human Resources Code requires caregivers who provide regular care for compensation to one to three unrelated children in their own home to be listed with DFPS, and for caregivers who provide regular care for compensation to four to six unrelated preschool children in their own home to be registered with DFPS.

## Recommendations

The Committee would make the following recommendations regarding these findings:

- The Legislature should support Child Care Licensing in the development of a public awareness campaign that makes consumers, parents and the community aware of the risks in choosing illegal child care operations.
- Child Care Licensing should also be supported in locating and requiring licensure of illegal child care operations. The Committee will continue to explore the most efficient and effective options for prevention and intervention of illegal child care.
- Child Care Licensing should review training requirements for day care operations, child placing agencies and foster parents on the causes and prevention of deaths in infants under 1 year of age and determine if those requirements should be changed or strengthened.
- Further Child Care Licensing review should be done of the deaths that occurred as a result of suffocation and sleeping arrangements to assess implications for policy and training.

The Committee understands that infants are a particularly vulnerable population that requires extraordinary care and will be making further recommendations about the protection of this special population.

## Conclusion

The Committee on Licensing Standards will continue reviewing other trends in the tragic deaths of children in child-care settings. The Committee is also eager to review data relevant to the other three charges for the Committee. Members have a shared sense of enthusiasm about serving on the Committee and developing recommendations for licensing policy and statutory changes to enhance outcomes for children, families, and others served by child care programs in Texas. In moving forward with its work to review and provide recommendations for changes in statute or policy, the Committee will be providing forums in the future for public input and looks forward to incorporating stakeholder concerns into its analysis and recommendations for improved protections for children in out-of-home care.

Another report will be made in December 2009.

## **Appendix A**

The Child-Care Licensing (CCL) Division is responsible for protecting the health, safety, and well-being of children who are not in the immediate care of their families while they attend or reside in regulated child-care operations and homes or while they are in the process of being adopted. Through a process mandated by Chapters 42 and 43 of the Human Resources Code, CCL develops licensing standards for regulated operations and homes as well as policies and procedures for enforcing those standards. CCL is responsible for inspecting child-care operations as well as investigating reports alleging violations of Licensing standards or abuse, neglect, or exploitation of children in care. CCL also licenses child care administrators and child-placing agency administrators.

CCL has an additional role of providing technical assistance and training to potential applicants and child-care providers about meeting and maintaining compliance with licensing standards. To help inform placement decisions and child-care selection, CCL provides information to parents and other consumers about the types of child-care available, locations of child-care operations and homes in Texas, and the results of licensing inspections and investigations.

CCL regulates three categories of child care operations: Listed Family Homes, Registered Operations (Child Care Homes), and Licensed Operations (Day Care and 24-hour Residential Care).

### **Listed Family Homes**

Listed Family Homes provide child care on a regular basis (at least 4 hours per day, 3 or more days a week, for more than 9 consecutive weeks) in their own homes for 1-3 unrelated children. Providers are required to go through an application process that includes a criminal background check and issuance of a certificate. Listed Family Home providers must be at least 18 years old, however, there are no licensing standards, orientation class, or training requirements for listed homes. They are not inspected unless a report is received alleging the child care being offered is subject to increased regulation. Allegations of abuse or neglect of children in the care of Listed Family Homes are investigated by CCL.

### **Registered Operations**

Registered Child Care Homes provide care in the caregiver's home for up to 6 children under age 14, and they may also take in up to 6 more elementary school children. The number of children allowed in a home is determined by the ages of the children. No more than 12 children can be in care at any time, including children of the caregiver. The application process requires that a provider complete an orientation class and receive clearances on background checks. A

registration certificate is issued after CCL staff completes an on-site inspection to ensure the provider is meeting standards promulgated specifically for these settings. Registered homes are inspected by CCL every 1-2 years and if a report is received related to child abuse/neglect or standards violations.

## **Licensed Operations**

All licensed operations have specific licensing standards they are required to follow, and these operations are routinely monitored and inspected by CCL. The application process requires that a provider complete an orientation class, and background checks are conducted. A license is issued after CCL staff completes on-site inspection to ensure licensing standards are met. Operations are inspected at least annually or more often if there are reports of alleged child abuse/neglect or violations of standards. Licensed Operations include day care and 24-hour care:

### **Day Care**

- Licensed Child-Care Homes provide care for less than 24 hours per day for 7-12 children under 14 years old.
- Child Care Centers are any operation, which cares for 13 or more children under 14 years old, for less than 24 hours.

### **24 Hour Care**

- Foster Family Homes provide 24-hour care for 6 or fewer children under 18 years old.
- Foster Group Homes provide 24-hour care for 7 to 12 children under 18 years old.
- Child Care Institutions provide 24-hour care for 13 or more children under 18 years old and include General Residential Operations (which may provide various treatment services or programmatic services) and Residential Treatment Centers.
- Child-Placing Agencies are persons or organizations other than a child's natural parent or guardian who plan for placement of a child or place a child in a child care facility, foster home, or adoptive home.
- Maternity homes provide 24-hour care for four or more minor and/or adult women and their children during pregnancy and/or during the six-week postpartum period, within a period of 12 months.



## Appendix B

### Child Care Operations in Texas as of August 31, 2008

Facility Type – Day Care Operations	2007 Count	2007 Capacity	2008 Count	2008 Capacity
Licensed Centers	9,319	891,812	9,309	912,320
Licensed Homes	1,536	18,285	1,564	18,664
Listed Homes	3,900	9,895	8,257	19,096
Registered Homes*	7,214	83,655	6,895	80,303
Small Employer Based Child Care	0	0	1	12
<b>Total Day Care Operations</b>	<b>21,969</b>	<b>1,003,647</b>	<b>26,026</b>	<b>1,030,395</b>

Facility Type – Residential Operations	2007 Count	2007 Capacity	2008 Count	2008 Capacity
Independent Foster Family Homes	4	22	3	16
Independent Foster Group Homes	11	109	7	77
General Residential Operations	140	6,921	144	7,166
Residential Treatment Centers	87	3,914	90	3,889
<b>Total Residential Facilities</b>	<b>242</b>	<b>10,966</b>	<b>244</b>	<b>11,148</b>

Child-Placing Agencies (CPAs)	2007 Count	2007 Capacity	2008 Count	2008 Capacity
Main Offices	200	NA	202	NA
Branch Offices	132	NA	129	NA
<b>Total CPA Offices</b>	<b>332</b>	<b>NA</b>	<b>331</b>	<b>NA</b>

Child-Placing Agency Homes	2007 Count	2007 Capacity	2008 Count	2008 Capacity
Agency Foster Family Homes**	6,230	22,970	6,481	22,360
Agency Foster Group Homes**	559	5,237	467	4,309
CPS Foster Family Homes	2,011	6,104	1,810	5,520
CPS Foster Group Homes	41	274	34	221
CPS Adoptive Homes	597	NA	726	NA
<b>Total CPA Homes</b>	<b>9,438</b>	<b>34,585</b>	<b>9,518</b>	<b>32,410</b>

Maternity Homes	2007 Count	2007 Capacity	2008 Count	2008 Capacity
Maternity Homes	16	207	13	191

Residential Child Care Licensing	2007 Count	2007 Capacity	2008 Count	2008 Capacity
<b>Grand Total</b>	<b>10,028</b>	<b>45,758</b>	<b>10,106</b>	<b>43,749</b>

\* Homes registered prior to 9/1/03 did not require a capacity to be listed in the database. As new permits are issued for changes made to currently operating homes, the capacities are included. As a result there is an increase in the capacity that is displayed.

\*\* Adoptive only homes are not included in the number of private agency homes.

## Appendix C

### Child Care Operations in Texas as of August 31, 2008\*

Year	Licensed Child-Care Operations**	Registered Child Care Homes	Listed Family Homes	Residential Facilities	Child-Placing Agencies
2004	10,621	8,422	3,845	9,033	275
2005	10,545	7,808	4,132	9,965	292
2006	10,695	7,488	3,895	10,108	304
2007	10,855	7,214	3,900	9,696	332
2008	10,874	6,895	8,257	9,775	331

\* Counts do not include Applicants.

\*\* Includes Licensed Child Care Centers, Licensed Homes, and Small Employer Based Child Care operations.