

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 747 MINIMUM STANDARDS FOR CHILD-CARE HOMES
SUBCHAPTER B ADMINISTRATION AND COMMUNICATION
DIVISION 1 PRIMARY CAREGIVER RESPONSIBILITIES

§747.207. What are my responsibilities as the primary caregiver?

You are responsible for:

(1) Developing and implementing your child-care home's operational policies, which comply with or exceed Division 4 of this subchapter (relating to Operational Policies);

(2) Ensuring all assistant caregivers and substitute caregivers comply with the relevant minimum standards for those caregivers, as specified in this chapter, and are provided assignments that match their skills, abilities, and training;

(3) Ensuring all household members comply with the minimum standards that apply to household members, as specified in this chapter;

(4) Reporting suspected abuse, neglect, or exploitation directly to the Texas Department of Family and Protective Services, as required by Texas Family Code §261.1401;

(5) Ensuring parents can visit your child-care home any time during all hours of operation to observe their child, program activities, the home, the grounds, and the equipment, without having to secure prior approval;

(6) Initiating background checks as specified in Chapter 745, Subchapter F of this title (relating to Background Checks);

(7) Ensuring all information related to background checks is kept confidential as required by the Human Resources Code, §40.005(d) and (e);

(8) Complying with the liability insurance requirements in this division;

(9) Complying with:

(A) The child-care licensing law, found in Chapter 42 of the Human Resources Code;

(B) All the minimum standards that apply to your licensed or registered child-care home, as specified in this chapter;

(C) All other applicable laws and rules in the Texas Administrative Code; and

(10) Ensuring the total number of children in care at the home or away from the home, such as during a field trip, never exceeds the capacity of the home as specified on the license or registration.

Helpful Information

- *Children are at risk when adults responsible for them do not clearly understand their roles and responsibilities.*
- *The primary caregiver may accompany any parent who is visiting a child during the child-care home's hours of operation to and from the child's group or may limit the amount of time a parent spends at the home, if the primary caregiver believes this is necessary to protect the children in care.*

§747.209. What are the liability insurance requirements?

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

(1) Maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence that covers injury to a child while the child is on your premises or in your care; and

(2) Provide proof of coverage to Licensing each year by the anniversary date of the issuance of your permit.

§747.211. What are acceptable reasons not to have liability insurance?

(a) You do not have to have liability insurance that meets the requirements of §747.209 of this division (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 cannot carry 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. Your notification must include the reason that you cannot carry the insurance.

§747.213 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 §747.209 of this division (relating to What are the liability insurance requirements?), then you must notify the parent of each child in your care in writing that you do not carry liability insurance before you admit the child into your care.

(b) If you received your permit before April 25, 2021 and cannot obtain the liability insurance by that date, then you must notify the parent of each child in your care in writing that you do not carry the insurance by May 25, 2021.

(c) If you previously carried the liability insurance and subsequently stop carrying the liability insurance, then you must notify the parent of each child in your care in writing that you do not carry the insurance within 14 days after you stop carrying it.

(d) You may use Form 2962, *Verification of Liability Insurance*, located on the Licensing 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, as required in §747.801(14) of this chapter (relating to What records must I keep at my child-care home?).

Helpful Information

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

- *Using a form specific to liability insurance that requires a parent signature that you maintain in the child's file;*
- *Including a statement or addendum about liability insurance in your operational policies or parent handbook, and maintain in the child's file a document with a parent signature or initials specifically acknowledging the liability insurance information; 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.*

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SUBCHAPTER B ADMINISTRATION AND COMMUNICATION
DIVISION 2 REQUIRED NOTIFICATIONS

§747.303. What other situations require notification to Licensing?

(a) You must notify us as soon as possible, but no later than two days after:

(1) Any occurrence that renders all or part of your child-care home unsafe or unsanitary for a child;

(2) Injury to a child in your care that requires **medical** treatment by a health-care professional **or hospitalization**;

(3) **A child in your care shows signs or symptoms of an illness that requires hospitalization**;

(4) 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 as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Disease);

(5) A person for **whom** you are required to request a background check under Chapter 745, Subchapter F of this title (relating to Background Checks) is arrested or charged with a crime;

(6) The occurrence of any other situation that places a child at risk, such as forgetting a child in a vehicle or not preventing a child from wandering away from your child-care home unsupervised; and

(7) A new individual becomes a controlling person at your operation, or an individual that was previously a controlling person ceases to be a controlling person at your operation.

(b) You must notify us immediately if a child dies while in your care.

Helpful Information

- Regarding paragraph (a)(1), examples of occurrences that may render a child-care home unsafe or **unsanitary** include sewer backups, flood, fire or storm damage, or the lack of running water.
- Regarding paragraph (a)(3), this notification applies to situations where the home sends a child to the hospital for an illness. For more information on how to respond when a child in care becomes ill and requires hospitalization, see §747.3405(b).
- Notifications to Licensing may be made:
 - Online 24 hours a day at http://www.dfps.state.tx.us/Contact_Us/report_abuse.asp;
 - By phone 24 hours a day to the Texas Abuse and Neglect Hotline 1-800-252-5400; or
 - By speaking to a Licensing employee during business hours at the local office. Phone numbers for the local offices can be found at: <https://hhs.texas.gov/services/safety/child-care/contact-child-care-licensing>

§747.305 What emergency and medical situations must I notify parents about?

(a) You must notify the parent of a child immediately if there is an allegation that the child has been abused, neglected, or exploited, as defined in Texas Family Code §261.001, while in your care.

(b) After you ensure the safety of the child, you must notify the parent of the child immediately after the child:

(1) Is injured and the injury requires medical **treatment** by a health-care professional;

(2) Shows signs or symptoms of an illness that requires hospitalization;

(3) Has been involved in any situation that placed the child at risk. For example, forgetting the child in a vehicle or **failing to prevent the** child from wandering away from your child-care home unsupervised; or

(4) Has been involved in any situation that renders the child-care home unsafe, such as a fire, flood, or damage to the child-care home as a result of severe weather.

(c) You must notify the parent of less serious injuries when the parent picks the child up from your child-care home. Less serious injuries **include minor** cuts, scratches, and bites from other children requiring first-aid treatment by caregivers.

(d) You must provide written notice to the parent of each child attending the child-care home within 48 hours when any child in your care, a caregiver, or a household member has contracted a communicable disease deemed notifiable by the Texas Department of State Health Services as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Disease).

(e) You must provide written notice to the parent of each child attending the child-care home within 48 hours when there is an outbreak of lice or other infestation in the child-care home.

Helpful Information

- *Communication between the caregiver and parents is essential to both the safe and healthy operation of the child-care home and to the parents' ability to assess the care their children are receiving.*
- *Regarding paragraph (a), you must notify the parent as soon as you have knowledge of the allegation, including when someone makes an allegation directly to you, when you make a report to DFPS, or when DFPS notifies you an allegation.*
- *Regarding paragraph (b)(1), please see §747.3407 for additional requirements for how a child-care home must respond to an injury that requires immediate medical treatment by a health-care professional.*
- *Regarding paragraph (b)(2), please see §747.3405 for additional requirements for how a child-care home must respond when a child becomes ill while in care.*

§747.307. What are the notification requirements when Licensing finds my child-care home deficient in a standard related to safe sleeping or the abuse, neglect, or exploitation of a child?

(a) You must notify the parent of each child attending your child-care home of a deficiency in:

(1) A safe sleeping standard noted in subsection (b) of this section; or

(2) The abuse, neglect, or exploitation standard in §747.1501(a)(3) of this chapter (relating to What general responsibilities do caregivers have in my child-care home?).

(b) The following are safe sleeping standards requiring notification:

(1) §747.2309(a)(1) of this chapter (relating to What specific safety requirements must my cribs meet?);

(2) §747.2311(2)(A) of this chapter (relating to Are play yards allowed?);

(3) §747.2315(a)(4) and (b) of this chapter (relating to What specific types of equipment am I prohibited from using with infants?);

(4) §747.2326 of this chapter (relating to May I allow infants to sleep in a restrictive device?);

(5) §747.2327 of this chapter (relating to Are infants required to sleep on their backs?);

(6) §747.2328 of this chapter (relating to May I swaddle an infant to help the infant sleep?); and

(7) §747.2329 of this chapter (relating to If an infant has difficulty falling asleep, may I cover the infant's head or crib?).

§747.309. How must I notify parents of a safe sleeping deficiency or an abuse, neglect, or exploitation deficiency?

(a) Within five days after you receive notification of a deficiency described in §747.307 of this division (relating to What are the notification requirements when Licensing finds my child-care home deficient in a standard related to safe sleeping or the abuse, neglect, or exploitation of a child?), you must notify the parents of each child attending your child-care home at the time of the notification, including a child who may not have been in care on the day of the actual incident.

(b) If the deficiency is for a safe sleeping standard, you must notify the parents using Form 2970, *Notification of Safe Sleeping Deficiency*, located on the Licensing provider website.

(c) If the deficiency is for the standard related to the abuse, neglect, or exploitation of a child in care, you must notify the parents using Form 7266, *Notification of Abuse/Neglect/Exploitation Deficiency*, located on the Licensing provider website.

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SUBCHAPTER C RECORD KEEPING
DIVISION 2 RECORDS OF ACCIDENTS AND INCIDENTS

§747.701. **What** written **records must I keep** of accidents and injuries that occur at my child-care home?

You must **record the following information on the** Licensing *Incident/Illness Report Form 7239* or **another form that contains** at least the same information:

(1) **An injury to a child in care** that required medical **treatment** by a health-care professional **or hospitalization**;

(2) **An illness that required the hospitalization of a child in care**;

(3) **An incident of a child in care or caregiver contracting a communicable disease deemed notifiable by the Texas Department of State Health Services as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases); and**

(4) **Any other situation that placed a child at risk, such as forgetting a child in a vehicle or not preventing a child from wandering away from the child-care home.**

Helpful Information

- *The Licensing Incident/Illness Report form ensures that parents have been notified of serious incidents and illnesses that impact or may impact the health and safety their child. This includes incidents that directly involve their child, such as a serious injury, and those that have the potential to affect their child, such as another child in care or a caregiver contracting a communicable disease. For more information regarding notifying parents about emergency and medical situations, see §747.305.*
- *You may obtain a copy of Licensing's Incident/Illness Report form on the Licensing provider website at:*

<https://hhs.texas.gov/laws-regulations/handbooks/cclpph/forms>

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SUBCHAPTER C RECORD KEEPING
DIVISION 3 RECORDS THAT MUST BE KEPT ON FILE AT THE CHILD-CARE HOME

§747.801. What records must I keep at my child-care home?

You must maintain and make the following records available for our review upon request during hours of operation. Paragraphs (8), (9), and (10) are optional, but if provided, will allow Licensing to avoid duplicating the evaluation of standards that have been evaluated by another state agency within the past year:

(1) Children's records, as specified in Division 1 of this subchapter (relating to Records of Children);

(2) Infant feeding instructions, as required in §747.2321 of this **chapter** (relating to Must I obtain written feeding instructions for children not ready for table food?), if applicable;

(3) Personnel and training records, as required in §747.901 of this **subchapter** (relating to What information must I maintain in my personnel records?), and in §747.1327 of this **chapter** (relating to What documentation must I provide to Licensing to verify that training requirements have been met?);

(4) Menus, as required in §747.3113 of this **chapter** (relating to Must I post and maintain daily menus?);

(5) Medication records, as required in §747.3605 of this **chapter** (relating to How must I administer medication to a child in my care?) if applicable;

(6) Pet vaccination records, as required in §747.3703 of this **chapter** (relating to Must I keep documentation of vaccinations for the animals?), if applicable;

(7) Safety documentation for emergency drills, fire extinguishers, smoke detectors, and emergency evacuation and relocation diagram, as required in §747.5005 of this **chapter** (relating to Must I practice my emergency preparedness plan?), §747.5007 of this **chapter** (relating to Must I have an emergency evacuation and relocation diagram?), §747.5107 of this **chapter** (relating to How often must I inspect and service the fire extinguisher?), §747.5115 of this **chapter** (relating to How often must the smoke detectors at my child-care home be tested?), and §747.5117 of this **chapter** (relating to How often must I have an electronic smoke alarm system tested?);

(8) Most recent Texas Department of State Health **Services** immunization compliance review form, if applicable;

(9) Most recent Texas Department of Agriculture Child and Adult Care Food Program report, if applicable;

(10) Most recent local workforce board Child-Care Services Contractor inspection report, if applicable;

(11) Written approval from the fire marshal to provide care above or below ground level, if applicable;

(12) Most recent **Licensing** form certifying that you have reviewed each of the bulletins and notices issued by the United States Consumer Product Safety Commission regarding unsafe children's products and that there are no unsafe children's products in use or accessible to children in the home;

(13) Documentation for **all full-sized and non-full-sized cribs**, as specified in §747.2309(a)(9) of this **chapter** (relating to What specific safety requirements must my cribs meet?);

(14) **Proof of current liability insurance coverage or, if applicable, that you have provided written notice to the parent of each child that you do not carry the insurance; and**

(15) **Proof that you have notified parents in writing of deficiencies in safe sleeping and abuse, neglect, or exploitation, as specified in §747.307 of this chapter (relating to What are the notification requirements when Licensing finds my child-care home deficient in a standard related to safe sleeping or the abuse, neglect, or exploitation of a child?) and §747.309 of this chapter (relating to How must I notify parents of a safe sleep deficiency or an abuse, neglect, or exploitation deficiency?).**

Helpful Information

- **Regarding paragraph (15), you may maintain the documentation in a manner that is consistent with your policies for record keeping, as long as you can verify that you notified each parent as required. Possible ways to maintain proof of notification include:**
 - **Keeping a copy of the notification in each child's individual file;**
 - **Keeping a single file of all notifications, with a list of the parents whom you notified attached to each notification form; or**
 - **Maintaining a copy of any notification sent to a parent electronically, including the date and address to which you sent the notification.**

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SUBCHAPTER R HEALTH PRACTICES
DIVISION 3 ILLNESS AND INJURY

§747.3405. How must caregivers respond when a child becomes ill?

(a) If a child becomes ill while in your care but does not require immediate treatment by a health-care professional or hospitalization, you must:

- (1) Contact the parent to pick up the child;
- (2) Care for the child apart from other children;
- (3) Give appropriate attention and supervision until the parent picks the child up; and
- (4) Give extra attention to hand washing and sanitation if the child has diarrhea or vomiting.

(b) If a child becomes ill while in your care and requires immediate treatment by a health-care professional or hospitalization, you must:

- (1) Contact emergency medical services (or take the child to the nearest emergency room after you have ensured the supervision of other children in the group);
- (2) Give the child first-aid treatment or CPR when needed;
- (3) Contact the child's parent;
- (4) Contact the physician or other health-care professional identified in the child's record; and
- (5) Ensure the supervision of other children in the group.

§747.3407. How must caregivers respond when a child is injured and requires immediate treatment by a health-care professional?

For an injury that requires immediate treatment by a health-care professional, you must:

- (1) Contact emergency medical services (or take the child to the nearest emergency room after you have ensured the supervision of other children in the home);
- (2) Give the child first-aid treatment or CPR when needed;
- (3) Contact the child's parent;
- (4) Contact the physician or other health-care professional identified in the child's record; and
- (5) Ensure supervision of other children in the group.