
HB 2814: DELC Licensing Statute Alignment

Background

The Department of Early Learning and Care (DELC) Child Care Licensing Division (CCLD) works with many types of child care programs, issuing three types of licenses: Registered Family, Certified Family, and Certified Center. In most cases, Registered Family and Certified Family child care licenses are in residential homes, while Certified Center licenses are in commercial buildings. Registered Family typically operates with one provider, while Certified Family and Certified Centers may operate with multiple staff members.

Each license type has similar health and safety requirements, but different governing statutes and administrative rules. There is inconsistency in the statutory requirements by license type, often presenting unnecessary obstacles for providers and preventing DELC from responding flexibly to provider needs.

1. Exceptions

Right now, the Registered Family provider statutes say that DELC can waive a statutory licensing requirement as long as there are appropriate safeguards in place to protect the welfare of children and consumer interests of parents and children. For Registered Family providers, CCLD most often uses this allowance to provide exceptions related to the numbers and age groups of children allowed in care, as noted below. DELC's requested ability to waive a statutory licensing requirement can also be helpful in circumstances where a Certified Family provider cannot feasibly meet a licensing requirement before their license expires. However, CCLD does not have the same type of allowance to be flexible with operators of Certified Family and Certified Center facilities. For example, if a Certified provider cannot obtain a statutorily required sanitation inspection before their license expires, the program will be forced to close, and families will lose care options for the time that the program is waiting to secure their inspection. Without the ability to waive requirements, a burden is placed on families, providers, and CCLD to rush inspections in order to approve applications and get licenses issued. This requires intense coordination among CCLD staff in conjunction with county-level specialists, and these efforts are not always successful. This bill enables DELC to test innovative approaches that can reduce administrative burdens and improve child care access, particularly in underserved areas, while ensuring that any exceptions are made with great care and safeguards to maintain quality and protect families. Such approaches may include granting limited flexibility for Certified Family providers to exceed the 16-child limit in specific, well-justified cases. It may also allow owners managing multiple homes to retain a license when a provider quits, ensuring continuity of care without unnecessary disruption.

2. Ratios

The governing statutes for licensed providers do not include staff-to-child ratio requirements for any provider license type except Registered Family child care providers. For all other license types, ratios are addressed in rule, allowing the Early Learning Council to adjust ratios as needed and to respond flexibly to the ever-evolving child care landscape. DELC would benefit from the Early Learning Council having the ability to adjust the numbers and ages of children by rule in Registered Family as well. For example, under current ORS 329A.330(2)(b), no more than two of the ten allowed children may be younger than 24 months of age. It is common that a family may want

a provider to care for a new baby when they already have other children in that provider's care. DELC currently approves a large number of exceptions related to Registered Family ratios. These exceptions typically allow for an additional infant or toddler in care, while capping the total number of children in care. If this allowance were in rule for Registered Family providers, it would eliminate the need for CCLD to staff exceptions and paperwork for providers, and also has the potential to create more infant and toddler slots throughout the state.

HB 2814

This legislation includes two policy changes intended to align licensing statutes among provider types.

1. Exceptions

HB 2814 will align statutory language allowing DELC to grant exceptions for licensing requirements across all provider types. It will do so by amending ORS 329.280, allowing DELC to waive a statutory licensing requirement for a Certified Family or Certified Center provider if appropriate conditions or safeguards are imposed to protect the welfare of children and the consumer interests of parents. This is the same language that appears in the statute for Registered Family child care providers.

2. Ratios

HB 2814 will amend ORS 329A.330 to remove statutory age ratios for Registered Family child care providers. Instead, the Early Learning Council will define by administrative rule how many children are allowed per age group, like other child care license types. This change will provide much-needed flexibility for licensed family child care providers, who are more likely to provide child care at non-standard working hours and culturally specific care. The change will also benefit families who have multiple children under the age of six and who want to keep their children in child care at a single location, rather than having to split siblings into different child care programs. Child care capacity, especially for younger children under 24 months of age, is currently very limited – especially in rural areas. This change could open additional capacity for younger children, as well as allow more flexibility for non-English-speaking families to find child care opportunities that meet their language and cultural needs.

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