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Via Email: CCLRules@dfps.state.tx.us

Department of Family and Protective Services
Child Care Licensing
Texas Register Liaison, Legal Services – 465
DFPS E-611, PO Box 149030
Austin, Texas 78714-9030

RE: Chapter 746 – Minimum Standards for Child Care Centers – Proposed Rules, Subchapter Q Nutrition and Food Services; Subchapter F. Developmental Activities and Activity Plan; Subchapter D. Professional Development

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Thank you for the opportunity to comment on the proposed rule changes for Chapter 746 – Minimum Standards for Child Care Centers. We thank the Department of Family and Protective Services (DFPS) and the Child Care Licensing Division for its work over the last year to review the minimum standards in Chapter 746, hold stakeholder forums, and gather input on changes that would help improve the health, safety, and wellbeing of children in child care centers.

The Partnership for a Healthy Texas (Partnership), is a coalition of over 50 organizations - including, but not limited to the American Heart Association, the American Cancer Society and Texas Action for Healthy Kids – focusing on “conquering obesity” in the state of Texas. Since the inception of the Partnership, we have become a recognized and valued partner in the fight against obesity and continue to have a strong influence on Texas policy. We believe that all organizations have something to contribute and working together we can have a successful impact on obesity issues.

Child care providers play a valuable role in the health and safety of young children. They ensure kids have the essential building blocks for healthy growth, brain development, and learning so they can succeed in school and the workplace. In particular, a positive early learning environment where our youngest kids receive nutritious foods and develop healthy eating and physical activity habits helps kids build strong bodies and strong minds. Being physically active and having a healthy diet before the age of five is associated with improved child development and cognitive outcomes, including higher school achievement and better reasoning skills.

Unfortunately, our children’s health and development are at risk. About 25 percent of kids between age one and two do not receive the recommended amount of iron (a key brain-building nutrient)¹ and many young Texans are already at an unhealthy weight at an early age. About one in twelve 2-to-5 year olds are obese.² While this challenge is present in all Texas communities – rural, suburban, and urban – some Texas children are at a higher risk. Nearly one-third of two- to five-year-olds (31 percent) from low-income Texas families participating in the Women, Infant, and Children (WIC) program are either overweight or obese.³

About 75 percent of kids under age six spend much of their day in child care, where parents aren’t in charge of decisions about snacking on carrots or cookies, drinking water or sugary drinks, and playing outside or watching a movie. Parents know their children deserve the benefits of healthy foods and active play time, and they want to know their child care providers are encouraging and reinforcing positive habits.

Child care centers and staff need the right tools, resources, and guidance to fulfill their important role. We are deeply concerned that, in its six-year comprehensive review of minimum standards, DFPS has not made any substantive improvements to standards for food and nutrition or active play opportunities. In order to support the health of our young children, minimum standards must set out clear guidance for child care centers related to healthy meals, snacks, and drinks, computer or media viewing time, and physical activity or active play time.

We urge the agency to implement the following recommendations.

Nutritious Meals, Drinks, and Snacks

Subchapter Q. Nutrition and Food Service, 40 TAC § 746.3309 through § 746.3321

Currently, minimum standards include only a handful of guidelines to promote nutritious foods and drinks. This section includes serving sizes and types of food groups to serve kids at different ages. But, the standards only cover kids age one and older – there is *no* mention of feeding practices for infants and toddlers under 12 months – and the guidelines can be confusing (e.g., a child age one to two must get 1 1/3 serving of fruit or vegetables, where a serving is ¼ cup of juice or ¼ of a fresh fruit).

Minimum standards for child care centers that serve food must align with Child and Adult Care Food Program (CACFP) meal pattern standards. Texas has participated in CACFP for years. CACFP sets out evidence-based and age-appropriate guidelines for meals and snacks that is proven to ensure kids receive enough nutrients and variety of foods while they are in child care – including a variety of fruits, vegetables, whole grains, and milk and less added sugars and saturated fats.⁴ To clarify expectations and practices that promote nutritious foods, at the *very minimum*, DFPS minimum standards should specify the following, based on CACFP evidence-based standards:

- For infants 0 through 5 months, only breastmilk and infant formula are served;
- Solid foods are gradually introduced around 6 months of age, as developmentally appropriate;
- Grain-based desserts do not count as a serving of grain;
- Ready-to-eat cereals may not contain more than 6 grams of sugar per dry ounce;
- Flavored milk should be eliminated;
- Yogurt must contain no more than 23 grams of sugar per 6 ounces;
- For kids 12 months and older, fruit or vegetable juice is limited to no more than four to six ounces per day or less; and
- For kids under 12 months, fruit or vegetable juice may not be served.

Limited Media or Screen Time to Ensure Healthy Growth and Development

Subchapter F. Developmental Activities and Activity Plan, TAC §§ 746.2205 and 746.2207

Young children need opportunities to be active – to jump, run, dance, and move their bodies – and to learn through social interactions. Limiting the amount of time a child spends in front of a TV, computer, or tablet is not just important for kids to achieve a healthy weight, it's essential for kids to reach their developmental milestones. In line with evidence-based standards supported by the CDC and AAP,⁵ section 746.2205 (Activity Plan) should clarify that:

- Media viewing is not permitted during meal or snack time; and
- For kids age two and older in child care settings, time spent in front of electronic devices, such as TV, computers, and tablets, should be limited to no more than thirty minutes once a week and only for educational purposes.

Active Play Opportunities for Healthy Growth and Development

Subchapter F. Developmental Activities and Activity Plan, TAC § 746.2205

Improvements and specific clarifications in the minimum standards are needed to ensure kids have ample opportunities to stay active, develop small and large muscles, and reach developmental milestones. In line with evidence-based standards supported by the CDC and AAP,⁶ section 746.2205 (Activity Plan) should clarify that:

- Outdoor play should be provided two to three occasions daily;
- The written activity plan should include structured and unstructured play;
- Children should have ample opportunity for moderate to vigorous activities, such as running, climbing, dancing, skipping, and jumping. Children from birth to age 6 should participate daily in two or more structured or caregiver-led activities or games that promote movement (indoor or outdoor); and
- Child care providers should have written policies on the promotion of physical activity.

Resources for Child Care Staff

Subchapter D, Professional Development, TAC § 746.1309

Child care center staff must complete a certain number of pre-service and annual training hours in specific topics, such as teacher-child interaction and discipline. Child health is merely an optional training topic.

- Early care and education staff must have orientation and annual training opportunities to learn about child nutrition, age-appropriate foods and snacks, and ways to develop age-appropriate activities and games that promote active play.

Resources for Parents

Subchapter Q, Nutrition and Food Service, TAC § 746.3309

Some child care centers do not serve their own food and ask parents to supply lunches or snacks. Given the importance of nutrition in the first few years of life, and the absence of other channels for effectively communicating with parents of young children about nutrition, the state should leverage child care providers' relationships with parents to promote healthy eating even in cases where providers have families bring their own meals and snacks from home.

- Minimum standards should require these providers to give information to parents regarding nutritional value of food, including sample menus, and foods that may cause allergic reactions or are potential choking hazards.

Thank you for your time and commitment to these important issues. If you have any questions, please feel free to contact Clayton Travis at clayton.travis@txpeds.org.

Respectfully Submitted,

David Lakey, MD
Chair, Partnership for a Healthy Texas
Former Commissioner of Health (2006-2015)

¹ Lucy Sullivan, Cara Brumfield. *1000 Days, Nourishing America's Future*. 2016. Available <http://thousanddays.org/tdays-content/uploads/1000Days-NourishingAmericasFuture-Report-FINAL-WEBVERSION-SINGLES.pdf>.

² Cynthia Ogden. *Prevalence of Childhood and Adult Obesity in the United States, 2011-2012*. Journal of American Medical Association. (2014) 311(8):806-815. Available at <http://jama.jamanetwork.com/article.aspx?articleid=1832542>.

³ Among Texas children ages 2 to 5 from families participating in WIC, 17 percent were overweight and 15 percent were obese in 2011. Data only includes low-income families participating in the WIC program and does not represent all children. Last available data set is 2011 since CDC has discontinued the Pediatric Nutrition Surveillance System. Centers for Disease Control. *2011 Pediatric Nutrition Surveillance System*. Available at http://www.cdc.gov/pednss/pednss_tables/pdf/national_table6.pdf.

⁴ Studies show that children in CACFP-participating programs receive foods of higher nutritional quality compared to those served in comparable child care settings without CACFP. In particular, children at CACFP sites are more likely to receive more fruits, vegetables, and milk, while eating fewer saturated fats and other sweets. They also obtained more protein, vitamin A, B vitamins, calcium, magnesium,

iron, and zinc. For a summary of research showing how CACFP improves nutritional quality of foods kids receive in child care, see Food and Research Center. *CACFP Supports Good Nutrition in Quality Child Care*. Available at http://www.frac.org/pdf/CACFP_factsheet.pdf.

⁵ Compared to other states, Texas ranks *far below average* when it comes to incorporating high-impact, evidence-based obesity prevention strategies into child care licensing. In fact, Texas' child care licensing standards include only 13 of the 47 components for obesity prevention in child care that are supported by the CDC, the National Resource Center for Health and Safety in Child Care, and the AAP. Centers for Disease Control and Prevention, *Prevention Status Reports: Texas*. Available at <http://wwwn.cdc.gov/psr/>.

⁶ *Ibid.*