

## CHAPTER 144H

### PREScribed PEDIATRIC EXTENDED CARE CENTERS

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#### 144H.01 DEFINITIONS.

Subdivision 1. **Application.** The terms defined in this section apply to this chapter.

Subd. 2. **Basic services.** "Basic services" includes but is not limited to:

(1) the development, implementation, and monitoring of a comprehensive protocol of care that is developed in conjunction with the parent or guardian of a medically complex or technologically dependent child and that specifies the medical, nursing, psychosocial, and developmental therapies required by the medically complex or technologically dependent child; and

(2) the caregiver training needs of the child's parent or guardian.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 4. **Licensee.** "Licensee" means an owner of a prescribed pediatric extended care (PPEC) center licensed under this chapter.

Subd. 5. **Medically complex or technologically dependent child.** "Medically complex or technologically dependent child" means a child under 21 years of age who, because of a medical condition, requires continuous therapeutic interventions or skilled nursing supervision which must be prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse.

Subd. 6. **Owner.** "Owner" means an individual whose ownership interest provides sufficient authority or control to affect or change decisions regarding the operation of the PPEC center. An owner includes a sole proprietor, a general partner, or any other individual whose ownership interest has the ability to affect the management and direction of the PPEC center's policies.

Subd. 7. **Prescribed pediatric extended care center, PPEC center, or center.** "Prescribed pediatric extended care center," "PPEC center," or "center" means any facility that provides nonresidential basic services to three or more medically complex or technologically dependent children who require such services and who are not related to the owner by blood, marriage, or adoption.

Subd. 8. **Supportive services or contracted services.** "Supportive services or contracted services" include but are not limited to speech therapy, occupational therapy, physical therapy, social work services, developmental services, child life services, and psychology services.

**History:** *1Sp2017 c 6 art 10 s 75*

#### **144H.02 LICENSURE REQUIRED.**

A person may not own or operate a prescribed pediatric extended care center in this state unless the person holds a temporary or current license issued under this chapter. A separate license must be obtained for each PPEC center maintained on separate premises, even if the same management operates the PPEC centers. Separate licenses are not required for separate buildings on the same grounds. A center shall not be operated on the same grounds as a child care center licensed under Minnesota Rules, chapter 9503.

**History:** *1Sp2017 c 6 art 10 s 76*

#### **144H.03 EXEMPTIONS.**

This chapter does not apply to:

- (1) a facility operated by the United States government or a federal agency; or
- (2) a health care facility licensed under chapter 144 or 144A.

**History:** *1Sp2017 c 6 art 10 s 77*

#### **144H.04 LICENSE APPLICATION AND RENEWAL.**

Subdivision 1. **Licenses.** A person seeking licensure for a PPEC center must submit a completed application for licensure to the commissioner, in a form and manner determined by the commissioner. The applicant must also submit the application fee, in the amount specified in section 144H.05, subdivision 1. Effective January 1, 2018, the commissioner shall issue a license for a PPEC center if the commissioner determines that the applicant and center meet the requirements of this chapter and rules that apply to PPEC centers. A license issued under this subdivision is valid for two years.

Subd. 2. **License renewal.** A license issued under subdivision 1 may be renewed for a period of two years if the licensee:

- (1) submits an application for renewal in a form and manner determined by the commissioner, at least 30 days before the license expires. An application for renewal submitted after the renewal deadline date must be accompanied by a late fee in the amount specified in section 144H.05, subdivision 3;
- (2) submits the renewal fee in the amount specified in section 144H.05, subdivision 2;
- (3) demonstrates that the licensee has provided basic services at the PPEC center within the past two years;
- (4) provides evidence that the applicant meets the requirements for licensure; and
- (5) provides other information required by the commissioner.

Subd. 3. **License not transferable.** A PPEC center license issued under this section is not transferable to another party. Before acquiring ownership of a PPEC center, a prospective applicant must apply to the commissioner for a new license.

**History:** *1Sp2017 c 6 art 10 s 78*

#### **144H.05 FEES.**

Subdivision 1. **Initial application fee.** The initial application fee for PPEC center licensure is \$3,820.

Subd. 2. **Renewal fee.** The fee for renewal of a PPEC center license is \$1,800.

Subd. 3. **Late fee.** The fee for late submission of an application to renew a PPEC center license is \$25.

Subd. 4. **Change of ownership.** The fee for change of ownership of a PPEC center is \$4,200.

Subd. 5. **Nonrefundable; state government special revenue fund.** All fees collected under this chapter are nonrefundable and must be deposited in the state treasury and credited to the state government special revenue fund.

**History:** *1Sp2017 c 6 art 10 s 79*

#### **144H.06 APPLICATION OF RULES FOR HOSPICE SERVICES AND RESIDENTIAL HOSPICE FACILITIES.**

Minnesota Rules, chapter 4664, shall apply to PPEC centers licensed under this chapter, except that the following parts, subparts, items, and subitems do not apply:

- (1) Minnesota Rules, part 4664.0003, subparts 2, 6, 7, 11, 12, 13, 14, and 38;
- (2) Minnesota Rules, part 4664.0008;
- (3) Minnesota Rules, part 4664.0010, subparts 3; 4, items A, subitem (6), and B; and 8;
- (4) Minnesota Rules, part 4664.0020, subpart 13;
- (5) Minnesota Rules, part 4664.0370, subpart 1;
- (6) Minnesota Rules, part 4664.0390, subpart 1, items A, C, and E;
- (7) Minnesota Rules, part 4664.0420;
- (8) Minnesota Rules, part 4664.0425, subparts 3, item A; 4; and 6;
- (9) Minnesota Rules, part 4664.0430, subparts 3, 4, 5, 7, 8, 9, 10, 11, and 12;
- (10) Minnesota Rules, part 4664.0490; and
- (11) Minnesota Rules, part 4664.0520.

**History:** *1Sp2017 c 6 art 10 s 80*

#### **144H.07 SERVICES; LIMITATIONS.**

Subdivision 1. **Services.** A PPEC center must provide basic services to medically complex or technologically dependent children, based on a protocol of care established for each child. A PPEC center may provide services up to 14 hours a day and up to six days a week.

Subd. 2. **Limitations.** A PPEC center must comply with the following standards related to services:

- (1) a child is prohibited from attending a PPEC center for more than 14 hours within a 24-hour period;
- (2) a PPEC center is prohibited from providing services other than those provided to medically complex or technologically dependent children; and
- (3) the maximum capacity for medically complex or technologically dependent children at a center shall not exceed 45 children.

**History:** *1Sp2017 c 6 art 10 s 81*

#### 144H.08 ADMINISTRATION AND MANAGEMENT.

Subdivision 1. **Duties of owner.** (a) The owner of a PPEC center shall have full legal authority and responsibility for the operation of the center. A PPEC center must be organized according to a written table of organization, describing the lines of authority and communication to the child care level. The organizational structure must be designed to ensure an integrated continuum of services for the children served.

(b) The owner must designate one person as a center administrator, who is responsible and accountable for overall management of the center.

Subd. 2. **Duties of administrator.** The center administrator is responsible and accountable for overall management of the center. The administrator must:

- (1) designate in writing a person to be responsible for the center when the administrator is absent from the center for more than 24 hours;
- (2) maintain the following written records, in a place and form and using a system that allows for inspection of the records by the commissioner during normal business hours:
  - (i) a daily census record, which indicates the number of children currently receiving services at the center;
  - (ii) a record of all accidents or unusual incidents involving any child or staff member that caused, or had the potential to cause, injury or harm to a person at the center or to center property;
  - (iii) copies of all current agreements with providers of supportive services or contracted services;
  - (iv) copies of all current agreements with consultants employed by the center, documentation of each consultant's visits, and written, dated reports; and
  - (v) a personnel record for each employee, which must include an application for employment, references, employment history for the preceding five years, and copies of all performance evaluations;
- (3) develop and maintain a current job description for each employee;
- (4) provide necessary qualified personnel and ancillary services to ensure the health, safety, and proper care for each child; and
- (5) develop and implement infection control policies that comply with rules adopted by the commissioner regarding infection control.

**History:** *1Sp2017 c 6 art 10 s 82*

**144H.09 ADMISSION, TRANSFER, AND DISCHARGE POLICIES; CONSENT FORM.**

Subdivision 1. **Written policies.** A PPEC center must have written policies and procedures governing the admission, transfer, and discharge of children.

Subd. 2. **Notice of discharge.** At least ten days prior to a child's discharge from a PPEC center, the PPEC center shall provide notice of the discharge to the child's parent or guardian.

Subd. 3. **Consent form.** A parent or guardian must sign a consent form outlining the purpose of a PPEC center, specifying family responsibilities, authorizing treatment and services, providing appropriate liability releases, and specifying emergency disposition plans, before the child's admission to the center. The center must provide the child's parents or guardians with a copy of the consent form and must maintain the consent form in the child's medical record.

**History:** *1Sp2017 c 6 art 10 s 83*

**144H.10 MEDICAL DIRECTOR.**

A PPEC center must have a medical director who is a physician licensed in Minnesota and certified by the American Board of Pediatrics.

**History:** *1Sp2017 c 6 art 10 s 84*

**144H.11 NURSING SERVICES.**

Subdivision 1. **Nursing director.** A PPEC center must have a nursing director who is a registered nurse licensed in Minnesota, holds a current certification in cardiopulmonary resuscitation, and has at least four years of general pediatric nursing experience, at least one year of which must have been spent caring for medically fragile infants or children in a pediatric intensive care, neonatal intensive care, PPEC center, or home care setting during the previous five years. The nursing director is responsible for the daily operation of the PPEC center.

Subd. 2. **Registered nurses.** A registered nurse employed by a PPEC center must be a registered nurse licensed in Minnesota, hold a current certification in cardiopulmonary resuscitation, and have experience in the previous 24 months in being responsible for the care of acutely ill or chronically ill children.

Subd. 3. **Licensed practical nurses.** A licensed practical nurse employed by a PPEC center must be supervised by a registered nurse and must be a licensed practical nurse licensed in Minnesota, have at least two years of experience in pediatrics, and hold a current certification in cardiopulmonary resuscitation.

Subd. 4. **Other direct care personnel.** (a) Direct care personnel governed by this subdivision include nursing assistants and individuals with training and experience in the field of education, social services, or child care.

(b) All direct care personnel employed by a PPEC center must work under the supervision of a registered nurse and are responsible for providing direct care to children at the center. Direct care personnel must have extensive, documented education and skills training in providing care to infants and toddlers, provide employment references documenting skill in the care of infants and children, and hold a current certification in cardiopulmonary resuscitation.

**History:** *1Sp2017 c 6 art 10 s 85*

**144H.12 TOTAL STAFFING FOR NURSING SERVICES AND DIRECT CARE PERSONNEL.**

A PPEC center must provide total staffing for nursing services and direct care personnel at a ratio of one staff person for every three children at the center. The staffing ratio required in this section is the minimum staffing permitted.

**History:** *1Sp2017 c 6 art 10 s 86*

**144H.13 MEDICAL RECORD; PROTOCOL OF CARE.**

A medical record and an individualized nursing protocol of care must be developed for each child admitted to a PPEC center, must be maintained for each child, and must be signed by authorized personnel.

**History:** *1Sp2017 c 6 art 10 s 87*

**144H.14 QUALITY ASSURANCE PROGRAM.**

A PPEC center must have a quality assurance program, in which quarterly reviews are conducted of the PPEC center's medical records and protocols of care for at least half of the children served by the PPEC center. The quarterly review sample must be randomly selected so each child at the center has an equal opportunity to be included in the review. The committee conducting quality assurance reviews must include the medical director, administrator, nursing director, and three other committee members determined by the PPEC center.

**History:** *1Sp2017 c 6 art 10 s 88*

**144H.15 INSPECTIONS.**

(a) The commissioner may inspect a PPEC center, including records held at the center, at reasonable times as necessary to ensure compliance with this chapter and the rules that apply to PPEC centers. During an inspection, a center must provide the commissioner with access to all center records.

(b) The commissioner must inspect a PPEC center before issuing or renewing a license under this chapter.

**History:** *1Sp2017 c 6 art 10 s 89*

**144H.16 COMPLIANCE WITH OTHER LAWS.**

Subdivision 1. **Reporting of maltreatment of minors.** A PPEC center must develop policies and procedures for reporting suspected child maltreatment that fulfill the requirements of section 626.556. The policies and procedures must include the telephone numbers of the local county child protection agency for reporting suspected maltreatment. The policies and procedures specified in this subdivision must be provided to the parents or guardians of all children at the time of admission to the PPEC center and must be available upon request.

Subd. 2. **Crib safety requirements.** A PPEC center must comply with the crib safety requirements in section 245A.146, to the extent they are applicable.

**History:** *1Sp2017 c 6 art 10 s 90*

**144H.17 DENIAL, SUSPENSION, REVOCATION, REFUSAL TO RENEW A LICENSE.**

(a) The commissioner may deny, suspend, revoke, or refuse to renew a license issued under this chapter for:

(1) a violation of this chapter or rules adopted that apply to PPEC centers; or

(2) an intentional or negligent act by an employee or contractor at the center that detrimentally affects the health or safety of children at the PPEC center.

(b) Prior to any suspension, revocation, or refusal to renew a license, a licensee shall be entitled to a hearing and review as provided in sections 14.57 to 14.69.

**History:** *1Sp2017 c 6 art 10 s 91*

#### **144H.18 FINES; CORRECTIVE ACTION PLANS.**

Subdivision 1. **Corrective action plans.** If the commissioner determines that a PPEC center is not in compliance with this chapter or rules that apply to PPEC centers, the commissioner may require the center to submit a corrective action plan that demonstrates a good-faith effort to remedy each violation by a specific date, subject to approval by the commissioner.

Subd. 2. **Fines.** The commissioner may issue a fine to a PPEC center, employee, or contractor if the commissioner determines the center, employee, or contractor violated this chapter or rules that apply to PPEC centers. The fine amount shall not exceed an amount for each violation and an aggregate amount established by the commissioner. The failure to correct a violation by the date set by the commissioner, or a failure to comply with an approved corrective action plan, constitutes a separate violation for each day the failure continues, unless the commissioner approves an extension to a specific date. In determining if a fine is to be imposed and establishing the amount of the fine, the commissioner shall consider:

(1) the gravity of the violation, including the probability that death or serious physical or emotional harm to a child will result or has resulted, the severity of the actual or potential harm, and the extent to which the applicable laws were violated;

(2) actions taken by the owner or administrator to correct violations;

(3) any previous violations; and

(4) the financial benefit to the PPEC center of committing or continuing the violation.

Subd. 3. **Fines for violations of other statutes.** The commissioner shall impose a fine of \$250 on a PPEC center, employee, or contractor for each violation by that PPEC center, employee, or contractor of section 144H.16, subdivision 2, or 626.556.

**History:** *1Sp2017 c 6 art 10 s 92*

#### **144H.19 CLOSING A PPEC CENTER.**

When a PPEC center voluntarily closes, it must, at least 30 days before closure, inform each child's parents or guardians of the closure and when the closure will occur.

**History:** *1Sp2017 c 6 art 10 s 93*

#### **144H.20 PHYSICAL ENVIRONMENT.**

Subdivision 1. **General requirements.** A PPEC center shall conform with or exceed the physical environment requirements in this section and the physical environment requirements for day care facilities in Minnesota Rules, part 9502.0425. If the physical environment requirements in this section differ from the physical environment requirements for day care facilities in Minnesota Rules, part 9502.0425, the

requirements in this section shall prevail. A PPEC center must have sufficient indoor and outdoor space to accommodate at least six medically complex or technologically dependent children.

Subd. 2. **Specific requirements.** (a) The entrance to a PPEC center must be barrier-free, have a wheelchair ramp, provide for traffic flow with a driveway area for entering and exiting, and have storage space for supplies from home.

(b) A PPEC center must have a treatment room with a medication preparation area. The medication preparation area must contain a work counter, refrigerator, sink with hot and cold running water, and locked storage for biologicals and prescription drugs.

(c) A PPEC center must develop isolation procedures to prevent cross-infections and must have an isolation room with at least one glass area for observation of a child in the isolation room. The isolation room must be at least 100 square feet in size.

(d) A PPEC center must have:

(1) an outdoor play space adjacent to the center of at least 35 square feet per child in attendance at the center, for regular use; or

(2) a park, playground, or play space within 1,500 feet of the center.

(e) A PPEC center must have at least 50 square feet of usable indoor space per child in attendance at the center.

(f) Notwithstanding the Minnesota State Building Code and the Minnesota State Fire Code, a new construction PPEC center or an existing building converted into a PPEC center must meet the requirements of the International Building Code in Minnesota Rules, chapter 1305, for:

(1) Group R, Division 4 occupancy, if serving 12 or fewer children; or

(2) Group E, Division 4 occupancy or Group I, Division 4 occupancy, if serving 13 or more children.

**History:** *1Sp2017 c 6 art 10 s 94*