142I.07 CAPACITY AND RATIOS.

Subdivision 1. **Capacity limits.** License holders must be licensed for the total number of children ten years of age or younger who are present on the premises of the family child care program at any one time during child care hours, including the caregiver's own children and foster children.

Subd. 2. **Capacity, ratios, and age distribution restrictions.** (a) The commissioner must issue licenses based on the capacity and ratios in this subdivision.

(b) License holders with a class A license must meet the following requirements:

Class	Capacity	Minimum Adult Caregivers	Maximum Children Under School Age	Maximum Total Infants and Toddlers	Maximum Infants
A	10	1	6	3	2

(c) License holders with a class C license must meet the following requirements:

Class	Capacity	Minimum Adult Caregivers	Maximum Children Under School Age	Maximum Total Infants and Toddlers	Maximum Infants
C1	5	1	5	3	3
C2	10	1	8	4	2
C3	12	1	10	3	2
C4	14	2	10	6	4
C5	18	2	12	5	2

Subd. 3. **Newborn care.** When a newborn is in care and only one adult caregiver is present, the newborn must be the only child under 12 months of age present, and the license holder must not care for more than two other children at the same time unless the newborn is the license holder's child. When a second adult caregiver is also present or the newborn is the child of the license holder, then the newborn is considered an infant for the purposes of child-to-adult ratios and age distribution restrictions.

Subd. 4. **Supervision, primary provider of care, and use of substitutes.** (a) Children in care must be supervised by an adult caregiver. The adult caregiver must have knowledge of each child's needs, including but not limited to developmental and behavioral needs and parental preferences, and be accountable for each child's care at all times. A caregiver must be within sight or hearing of newborns, infants, toddlers, and preschoolers at all times without the use of monitoring devices, except as provided in section 142I.18.

(b) The primary provider of care must be the primary caregiver in the family child care program unless a substitute is being used in accordance with section 142I.09. A helper may be used in place of a second adult caregiver when there is no more than one newborn, infant, or toddler present.

(c) The use of a substitute caregiver must be in accordance with section 142I.09.

Subd. 5. **Overnight care.** When a family child care program has a child in care after 11 p.m. and before 5 a.m.:

(1) at least one adult caregiver must remain awake and available to respond to children's needs at all times. The program must maintain required caregiver-to-child ratios. Additional caregivers may sleep when ratios are maintained and must be available to resume supervision when needed;

(2) all awake children must be given the opportunity to engage in age-appropriate activities in a separate room away from sleeping children; and

(3) the child care emergency plan must include a plan tailored to sleeping children.

Subd. 6. **Class C5 licenses.** (a) Class C5 licenses must always operate at the level of exit discharge.

(b) A family child care program with a class C license may operate as a lower C-class level family child care program on days when the adult-to-child ratios allow it to operate at a lower capacity.

Subd. 7. **Care of the license holder's own child or children.** (a) With the license holder's consent, an individual may be present in the licensed space and care for the license holder's own child both inside and outside of the licensed space and is exempt from the training and supervision requirements of section 142I.10 if the individual:

(1) is related to the license holder or to the license holder's child, as defined in section 142I.01, subdivision 40, or is a household member who the license holder has reported to the county agency;

(2) is not a caregiver for the family child care program at the time that they are supervising the license holder's own child;

(3) only cares for the license holder's own child; and

(4) does not have direct, unsupervised contact with any nonrelative children in care.

(b) If the individual in paragraph (a) is not a household member, the individual is also exempt from background study requirements under chapter 245C.

(c) Where a caregiver is also a parent providing care to their own child in the family child care program, sections 142I.13; 142I.17; 142I.20, subdivisions 1 to 3; and 142I.21 do not apply to caregivers with regards to the care of their own children.

(d) Notwithstanding paragraph (c), family child care programs with license holders or caregivers providing care to their own child are not exempt from the capacity, ratio, and age distribution requirements under this section. License holders and caregivers remain subject to chapters 260E and 609 and other applicable statutes and rules.

(e) Notwithstanding paragraph (c), the agency may enforce the standards in sections 142I.13; 142I.17; 142I.20, subdivisions 1 to 3; and 142I.21 when the caregiver's actions with regards to the care of their own children affect the other children in the caregiver's care.

History: *1Sp2019 c 9 art 2 s 46; 1Sp2020 c 2 art 1 s 8; 2024 c 80 art 2 s 74; 2024 c 115 art 16 s 41; 2026 c 127 art 13 s 7*