Colorado Department of Human Services
1575 Sherman Street
Denver, CO 80203

November 14, 2017

Dear Director Bicha & Members of the Colorado State Board of Human Services,

Our school-age child care providers play a vital role in supporting the healthy development of Colorado's children. For the more than 80,000 school-age children, and their families who depend upon child care, licensing should provide a basic assurance that children's social and emotional health as well as their physical safety and well-being are being actively supported. The Colorado Department of Human Services has an important role in providing this assurance to every parent in our state.

The ten below-signed child health-focused organizations applaud the Colorado Office of Early Childhood for collaborating with diverse stakeholders, ranging from school-age care providers to health care professionals and early childhood advocates, in the process of proposing revised school-age child care rules that support Colorado kids. The proposed new rules help to ensure that children spend time in settings that are safe, healthy, and supportive. The draft rules make meaningful progress in a number of areas, including social and emotional health, medication storage, the needs of children with special health conditions, and a variety of topics related to the growing issue of preventable childhood diseases, like obesity, tooth decay, and diabetes.

We would, in particular, like to express our appreciation for the Department's willingness to listen to the feedback of the health community over the past several years as various child care regulations have been updated. **We have highlighted several shared priorities as this process has advanced over the past several years and are pleased to see the following items included in the proposed rules**:

- Sugar-sweetened beverages
    - 7.712.54 B & C: Limiting the provision of sugary drinks for children is one of the most important priorities of Colorado's health community. Access to sugary drinks nearly doubles the risk of dental caries (tooth decay), **the most common chronic and unmet disease of childhood** nationally and in Colorado.[1,2] Forty percent of all children have experienced tooth decay by kindergarten. By third grade, it's about 55 percent. Among Hispanic children or low income children, about 70 percent of third graders have experienced tooth decay. Consuming sugary drinks like soda, flavored milks, juice, and juice drinks increases the risks of not only tooth decay but also obesity, calcium deficiency, and associated health challenges. Each 12-ounce sugary drink consumed per day by **children increases their risk of becoming obese by 60 percent**.[3] In fact, compared to children who rarely drink sugar-sweetened beverages, children who drink at least one serving of sugar-sweetened beverages per day **have a 55% increased probability of being overweight or obese**.[4] Coloradans support limiting access to sugary

[1] Marshall TA, Levy SM, Broffitt B, Warren JJ, Eichenberger-Gilmore JM, Burns TL, Stumbo PJ. Dental caries and beverage consumption in young children. Pediatrics. 2003;112(3 Pt 1):e184- e191

[2] Dental Caries and Beverage Consumption in Young Children" Teresa A. Marshall, PhD, RD*; Steven M. Levy, DDS, MPH*; Barbara Broffitt, MS*; John J. Warren, DDS, MS*; Julie M. Eichenberger-Gilmore, PhD, RD*; Trudy L. Burns, PhD‡; and Phyllis J. Stumbo, PhD, RD§. "Pediatrics." (http://www.pediatricsdigest.mobi/content/112/3/e184.full.pdf+html)

[3] Relation between consumption of sugar-sweetened drinks and childhood obesity: a prospective, observational analysis" Dr David S Ludwig, MD, Karen E Peterson, ScD, Steven L Gortmaker, PhD, "The Lancet". (http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2800%2904041-1/fulltext)

[4] Morenga LT, Mallard S, Mann J. Dietary sugars and body weight: systematic review and meta-analyses of randomized controlled trials and cohort studies. Brit Med J. Jan 15 2013;346.

drinks in child care settings. **79 percent of Coloradans** believe that child care "facilities should not be allowed to provide soda pop or other sugary drinks to children under age 6 in their care unless their parents provide them."[5]

- In particular, we appreciate the addition of energy drinks and sports drinks, which include added sugars, to the list of sugary drinks not permitted in child care centers under these proposed rules. Ensuring these drinks are not made available is school-age child care centers is supported by research demonstrating links between frequent intake of caloric sports drinks and a substantially increased risk for being overweight or obese, greater risk of caffeine abuse and toxicity among children who consumer energy drinks, as well as dental erosion, in children and adolescents.[6]
- **We encourage you to adopt the provisions regarding sugary drinks, including energy and sports drinks, as written in the rules released for public comment**.

- Healthy eating
  - 7.712.54 A and D: Aligning meals and snacks offered in school-age child care settings with USDA child and adult care food program meal pattern requirements is a vital step to ensuring access to healthy foods, appropriate portion sizes, and limiting unhealthy foods that contribute to childhood obesity.
  - **We encourage you to adopt the provisions regarding meals and snacks as written in the rules released for public comment.**
- Screen time
  - 7.712.63 B & C: The recommendations regarding prohibiting screen time during meals is an important provisions that promotes adult and child interactions that we know are valuable for child development and healthy eating habits. In addition, aligning media and internet use with curricular priorities and promoting parental awareness of such policies will help ensure screen time is used to promote learning and development.
  - **We encourage you to adopt the provisions regarding screen time as written in the rules released for public comment.**
- Physical activity
  - 7.712.62 A, B, & C: Ensuring that children have access to regular physical gross motor activity throughout the day is vital to addressing Colorado's childhood obesity challenges and for promoting the healthy development of young children. In addition to the provisions in the proposed rules, we would recommend that these physical activities for all program lengths should be "structured" per the NASPE guidelines.
  - **We encourage you to adopt the provisions regarding physical gross motor activity in the rules released for public comment and add in an expectation that these activities be "structured."**
- Immunizations
  - 7.712.41(L): While the rules do not advance the immunization expectations for school-age child care staff, the minimal threshold of ensuring that staff members responsible for the collection, review, and maintenance of immunization records completes the CDPHE

[5] The survey was conducted by Harstad Strategic Research, Inc. Interviews were conducted by live interviewers reaching land lines and cell phones from July 10-14, 2015. The results are based upon 602 random telephone interviews among active voters in Colorado who voted in 2012, 2014 or registered since November 2012. This random sample of 602 has a worst-case 95% confidence interval of ±4.0% about any one reported percentage. http://healthiercolorado.org/colorado-poll-shows-strong-support-for-public-policy-action-on-sugary-drinks/

[6] Schneider MB, Benjamin HJ. Sports drinks and energy drinks for children and adolescents: are they appropriate? Pediatrics. 2011;127(6):1182-1189

[7] SHAPE America – Society of Health and Physical Educators. (2009). Using physical activity as punishment and/or behavior management [Position statement]. Reston, VA: Author.

immunization course upon employment and annually is a vitally important starting point and are pleased to see the inclusion of this rule.

- 7.712.42 D (4) and (5): Recent changes to oversight of immunization compliance means that universal and ongoing training for nurses and doctors working with child care facilities are vital to consistency in the application of these vital rules. New Board of Health rules, which became effective December 2016, require all licensed child care facilities to annually report to CDPHE on the current immunization and exemption rates of the children in their care, where they are made publicly available. Accurate and transparent immunization data serves as an important consumer resource for parents seeking healthy learning and care environments, especially for infants too young to be fully vaccinated. However, this new rule is technical and requires new and ongoing training for both childcare health consultants and the staff responsible for the collection, review and maintenance of immunization records The Center for Disease Control and Prevention's (CDC) Advisory Committee on Immunization Practices meets three times each year to regularly make changes on recommended vaccines and all health care providers benefit from annual updates and trainings on immunizations CDPHE's training is regularly updated to reflect new recommendations and best practices which benefit both childcare health consultants and the staff responsible for the collection, review and maintenance of immunization records so that they have a shared understanding and skill set around required data collection and recordkeeping.
- 7.712.52(A)(1)(b): Bringing the school-age rules into compliance with CDPHE expectations for immunization documentation provides important protections for children and ensures there is an immunization schedule that is reflective of the changing needs of children at different ages. We are pleased to see alignment between state agencies for these expectations.
- **We encourage you to:**
  - **Adopt the provisions regarding the completion of the CDPHE-approved immunization course for employees responsible for immunization records and Child Care Health Consultants as written in the rules released for public comment.**
  - **Adopt the rules that bring CDHS licensing into compliance with CDPHE expectations for documentation in the rules released for public comment.**
  - **Continue to examine how best to ensure child care staff are up-to-date with CDC recommended vaccines and have received an annual flu vaccine.**

- Social-emotional development
  - 7.712.31(A)(9)(d), 7.712.31(A)(26): Given recent federal requirements under the reauthorization of CCDBG and the emerging recognition importance of behavioral health and social emotional development, we believe these are not overly-burdensome changes that should be included in a basic assurance of health in an school-age child care setting as provided by holding a license. These provisions are important first steps toward a robust commitment to children's overall well-being.
  - **We encourage you to adopt the provisions regarding behavioral health and social-emotional development as written in the rules released for public comment.**
- Guidance
  - 7.712.55(H): Banning the use of physical exercise as a form of guidance (or discipline) is important. Alternatives to this form of punishment, of which there are many, can establish a positive experience of physical activity and exercise for children that can last a lifetime, in addition to helping teachers and coaches identify and address the root cause of the child's negative behavior.[7]

    - **We encourage you to adopt the provisions regarding Guidance, including eliminating the use of physical exercise as a form of discipline, as written in the rules released for public comment.**
- Medication storage
    - 7.712.52 (C): While content experts may provide more detailed comments regarding some of the specifics of this section, we would like to reiterate the importance of clarity of labeling, safe storage, adequate training, and emergency medication administration as vital protections for children's safety and are pleased to see efforts to clarify how medications should be utilized in child care settings.
    - **We encourage you to adopt the provisions regarding medication storage as written in the rules released for public comment.**
- Staff training on health priorities
    - 7.712.41: We are pleased to see specific requirements for staff training that address standard precautions requirements, child abuse prevention, and building and physical premises safety.
    - **We encourage you to adopt the provisions regarding staff training on health priorities as written in the rules released for public comment.**
- Access to restrooms
    - 7.712.72(A): It is important that all children, regardless of sexual orientation, gender identity or gender expression, have full access to restrooms consistent with their identity. To promote greater consistency with Department of Regulatory Agencies (DORA) Rule 81.11 on Restrooms and Locker Rooms, and in doing so, facilitate the social integration and protection of LGBTQ individuals, inclusion of language that more strongly reflects gender identity and not simply sex identified at birth would strengthen this component of the rules.
    - **We encourage you to adopt the following language:**
        - **"Children must be allowed the use of gender-segregated toilet facilities that are consistent with their gender identity, with toilets separated by partitions to provide privacy."**

Taken in whole, these rules mark a significant step forward in advancing children's health, nutrition, social-emotional development, and safety in school-age child care. These changes would be a notable improvement given Colorado's current rules. The Public Health Law Center at the Mitchell Hamline School of Law's assessment of our school-age child care rules (see attachment below) highlight just how deficient our school-age regulations are in promoting healthy eating and active living. Just as we did with the child care center rules two years ago (as is noted in the attachment below), we can take an important step forward in promoting child health. Passing these regulations would elevate children's child care experiences throughout the state.

At the same time, there is more we can and should do to improve the quality of school-age care throughout our state. In particular, we would encourage the Department and the State Board to take important steps to ensure that child care staff receive and provide documentation of a seasonal influenza vaccine annually and tighten existing language to ensure staff document compliance with CDC recommended adult immunization schedule. Moving forward, we will continue to encourage the Office of Early Childhood and the Colorado Department of Human Services to strengthen rules when it comes to important public health issues like vaccine-preventable diseases and pursuing other important preventative safety measures.

We respectfully urge the State Board of Human Services to support the policies noted above included in this package and encourage the Department of Human Services to consider incorporating our additional suggestions into this or future rule revisions.

Sincerely,

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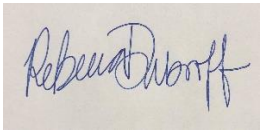

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SNAPSHOT: Colorado's Child Care Licensing Regulations for Nutrition Standards, Active Play and Limited Screen Time

Child care providers are uniquely positioned to cultivate practices in children that encourage healthy eating, active play and limited screen time. Nearly two-thirds of all three- to five-year-olds are in some form of child care. A focus on the licensed child care environment must be part of a comprehensive strategy to provide nutritious food and increased active play. The table below compares the Voices for Healthy Kids' Policy Priorities with the Colorado's child care licensing regulations related to nutrition standards, active play and screen time limitations. Colorado has at least four types of child care settings: child care centers, school-age child care centers, family child care homes, and children's resident camps.[i]

Voices for Healthy Kids Policy Priorities	**Child Care Centers**	**School-Age Child Care Centers**	**Family Child Care Homes**	**Children's Resident Camps**
Linked to **CACFP** (pre-update)				
Linked to **current CACFP** (effective 2017)				
Moderate and vigorous physical activity for at least **60 min./day** for full-day programs or **30 min. /day** for a half-day morning or afternoon program.				
Provide a **mixture** of moderate and vigorous activities, including bone- and muscle-strengthening activities.				
Active play **outdoors** whenever possible.				
Provide **infants** with daily opportunities to **explore indoor and outdoor environments** under adult supervision.				
Daily tummy time for infants less than 6 months of age				
Screen time Definition = TV, movies, cell phone, video games, computer, and other digital devices				
Eliminate screen time for children **under 2 years old**.				
For children **over 2**, limit screen time to **less than 30 min. per day** for half-day programs and **less than 1 hour per day** for full-day programs.				

Does Not Meet Policy Priority	Partially Meets/Comes Close to Meeting Policy Priority	Meets Policy Priority	Policy Priority Does Not Apply to Setting

The information contained in this memo was completed by the Public Health Law Center with funding from the American Heart Association through the Voices for Healthy Kids Action Center. *The information is not intended for external use. The Public Health Law Center provides information and technical assistance on issues related to tobacco and public health. The Public Health Law Center does not provide legal representation or advice. This e-mail should not be considered legal advice or a substitute for obtaining legal advice from an attorney who can represent you. If you have specific legal questions, we recommend that you consult with an attorney familiar with the laws of your jurisdiction. For more information on this resource or other resources relating to child care and out-of-school-time in your state, please contact Natasha Frost at natasha.frost@mitchellhamline.edu.*

[i] https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6472&fileName=12%20CCR%202509-8%20%20 (Effective February 1, 2016)

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