

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES
BUREAU OF HUMAN SERVICES LICENSING**

Child Residential and Day Treatment Facilities (55 Pa.Code Chapter 3800)

Q/A - Regulatory Clarifications – September 2016

The clarifications and interpretations below will remain on the Department's web site until the information is included in the next updated Regulatory Compliance Guide (RCG).

Regulation: § 3800.32(g) – Specific Rights

§ 3800.32(g) - A child has the right to receive and send mail.

(1) Outgoing mail may not be opened or read by staff persons.

(2) Incoming mail from Federal, State or county officials, or from the child's attorney, may not be opened or read by staff persons.

(3) Incoming mail from persons other than those specified in paragraph (2), may not be opened or read by staff persons unless there is reasonable suspicion that contraband, or other information or material that may jeopardize the child's health, safety or well-being, may be enclosed. If there is reasonable suspicion that contraband, or other information that may jeopardize the child's health or safety may be enclosed, mail may be opened by the child in the presence of a staff person.

Question: Is it permissible for a facility to honor a judge's court order or an order from a referring entity (such as county or probation) to withhold mail or require that staff read the mail?

ANSWER: A violation will not be cited for withholding a child's mail as long as the facility is complying with a court order which is specific to an individual child.

If a facility has a court order which is specific to an individual child, the facility will need to apply for a waiver of regulation. The facility should complete a request for waiver of regulation form, attach a copy of the court order to the request form, and send it to BHSL for review and approval.

Question: Is it permissible for a facility to have a policy in place which limits who is allowed to send a resident mail?

ANSWER: No; facilities cannot limit who is allowed to send a child mail unless a court order which is specific to an individual child is in place.

**** This Q/A hereby rescinds the Q/A issued in July 2015. ****

Regulation: § 3800.143(a) – Child Health Examination

§ 3800.143(a) - A child shall have a health examination within 15 days after admission and annually thereafter, or more frequently as specified at specific ages in the periodicity schedule recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision," available from 141 Northwest Point Boulevard, Post Office Box 927, Elk Grove Village, Illinois, 60009-0927.

Question: How long does a baby need to be in the facility for respite care before the facility is required to fill out child paperwork?

ANSWER: This requirement applies to respite care if respite care is provided for a baby for more than 30 days in a 12-month period. One health examination is required per year. If a baby is readmitted within the same year, a new health examination is not required unless the baby's medical condition has changed since the prior health examination.

Regulation: § 3800.171(2) – Safe Transportation

§ 3800.171(2) - Each child shall be in an individual, age and size appropriate, safety restraint at all times the vehicle is in motion.

Question: What are the parameters of the new Pennsylvania Child Car Seat Law, which goes into effect August 2016?

ANSWER: An amendment of the Pennsylvania Vehicle Code – Restraint Systems was put into effect as of August 2016. Under the amended law, any person who is operating a passenger car, Class I truck, Class II truck, classic motor vehicle, antique motor vehicle or motor home and who transports a child under two years of age anywhere in the motor vehicle shall fasten the child securely in a rear-facing child passenger restraint system, to be used until the child outgrows the maximum weight and height limits designated by the manufacturer.

In addition, any person who is operating a passenger car, Class I truck, Class II truck, classic motor vehicle, antique motor vehicle or motor home and who transports a child under four years of age anywhere in the motor vehicle, including the cargo area, shall fasten the child securely in a child passenger restraint system. Any person who is operating a passenger car, Class I truck, Class II truck, classic motor vehicle, antique motor vehicle or motor home and who transports a child four years of age or older but under eight years of age anywhere in the motor vehicle, including the cargo

area, must fasten the child securely in a fastened safety seat belt system and in an appropriately fitting child booster seat.

Finally, the driver must secure in a properly adjusted and fastened safety seat belt every vehicle occupant eight years of age or older but under 18 years of age.

In short, for facilities who provide transportation, this means the following:

- Children under two years of age must be fastened securely in a rear-facing child passenger restraint system, to be used until the child outgrows the maximum weight and height limits designated by the manufacturer.
- Children under four years of age must be fastened securely in a child passenger restraint system.
- Children four years of age or older but under eight years of age must be fastened securely in a safety seat belt system and in an appropriately fitting child booster seat.
- Children eight years of age or older but under 18 years of age must be fastened securely in a safety seat belt which has been properly adjusted.

A copy of the new amended Child Car Seat Law is included at the end of this Q/A document. You can also access a copy of it online here: <http://www.legis.state.pa.us/cfdocs/legis/li/uconsCheck.cfm?yr=2016&sesslnd=0&act=43#>

VEHICLE CODE (75 PA.C.S.) - RESTRAINT SYSTEMS

Act of Jun. 13, 2016, P.L. 336, No. 43

Cl. 75

Session of 2016

No. 2016-43

SB 1152

AN ACT

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in other required equipment, further providing for restraint systems; and making an editorial change.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The heading of Subchapter E of Chapter 45 of Title 75 of the Pennsylvania Consolidated Statutes is amended to read:

SUBCHAPTER E

[CHILD PASSENGER] **OCCUPANT** PROTECTION

Section 2. Section 4581(a)(1), (1.1) and (2)(i) of Title 75 are amended to read:

§ 4581. Restraint systems.

(a) Occupant protection.--

(1) [Any] **(i) Except as provided under subparagraph (ii), any person who is operating a passenger car, Class I truck, Class II truck, classic motor vehicle, antique motor vehicle or motor home and who transports a child under four years of age anywhere in the motor vehicle, including the cargo area, shall fasten such child securely in a child passenger restraint system, as [defined] provided in subsection (d).**

(ii) Any person who is operating a passenger car, Class I truck, Class II truck, classic motor vehicle, antique motor vehicle or motor home and who transports a child under two years of age anywhere in the motor vehicle shall fasten such child securely in a rear-facing child passenger restraint system, to be used until the child outgrows the maximum weight and height limits designated by the manufacturer, as provided in subsection (d).

(iii) This [subsection] paragraph shall apply to all persons while they are operators of motor vehicles where a seating position is available which is equipped with a seat safety belt or other means to secure the systems or

where the seating position was originally equipped with seat safety belts.

(1.1) Any person who is operating a passenger car, Class I truck, Class II truck, classic motor vehicle, antique motor vehicle or motor home and who transports a child four years of age or older but under eight years of age anywhere in the motor vehicle, including the cargo area, shall fasten such child securely in a fastened safety seat belt system and in an appropriately fitting child booster seat, as [defined] **provided** in subsection (d). This paragraph shall apply to all persons while they are operators of motor vehicles where a seating position is available which is equipped with a seat safety belt or other means to secure the systems or where the seating position was originally equipped with seat safety belts.

(2) (i) The driver of a passenger car, Class I truck, Class II truck or motor home operated in this Commonwealth [shall secure or cause to be secured in a properly adjusted and fastened safety seat belt system on the driver, if under 18 years of age, and every vehicle occupant eight years of age or older but under 18 years of age.] **shall:**

(A) if under 18 years of age, be secured in a properly adjusted and fastened safety seat belt system; and

(B) secure or cause to be secured in a properly adjusted and fastened safety seat belt every vehicle occupant eight years of age or older but under 18 years of age.

* * *

Section 3. Notwithstanding the provisions of 75 Pa.C.S. § 4581(b), a law enforcement official authorized to issue citations for a violation of 75 Pa.C.S. § 4581(a)(1)(ii) shall, during the first year following the effective date of this section, only issue verbal warnings to individuals who are in violation of 75 Pa.C.S. § 4581(a)(1)(ii).

Section 4. This act shall take effect in 60 days.

APPROVED--The 13th day of June, A.D. 2016.

TOM WOLF