



## SMOKE-FREE CHILD CARE: A POLICY OVERVIEW

For years, medical studies have shown the ways exposure to secondhand smoke damages the human body and directly leads to chronic disease, such as cancer, heart disease and stroke.<sup>1</sup> Children are particularly susceptible to the toxic chemicals in tobacco smoke. Today, while local and state smoke-free workplace laws protect a majority of the U.S. adult population, many children continue to be exposed to secondhand smoke in environments where they spend the most formative years of their lives: commercial and home-based child care settings.

More than half of all children in the U.S. from infancy through age 6 receive some form of regular nonparental child care.<sup>2</sup> These child care settings range from commercial day care centers, to single family or group family home-based care.<sup>3</sup> Many of these centers and homes are licensed. And while most states regulate smoking in licensed child care facilities, a large number of child care centers and family child care homes remain exempt from licensing requirements.<sup>4</sup> As a result, whether a child is exposed to secondhand smoke in child care often depends on the setting and the child care provider.

### How does secondhand smoke harm children?

Secondhand smoke is a mixture of gases and fine particles containing thousands of toxic chemicals, including carcinogens, such as benzene, chromium, and formaldehyde, as well as cyanide and carbon monoxide.<sup>5</sup> Infants and children, whose bodies are still developing, are especially likely to suffer adverse health effects when exposed to secondhand smoke. Secondhand smoke is a known cause of:



- Sudden Infant Death Syndrome<sup>6</sup>
- Potentially fatal respiratory tract infections, such as bronchitis and pneumonia<sup>7</sup>
- Respiratory symptoms, including cough, phlegm, wheezing, and breathlessness<sup>8</sup>
- Frequent and severe asthma attacks<sup>9</sup>
- Middle ear infections, which are often related to hearing problems<sup>10</sup>

Children exposed to secondhand smoke are also more likely to be at risk for type 2 diabetes and to experience heart disease, stroke, and lung cancer during their lifetimes.<sup>11</sup> They tend to experience more learning and behavioral problems than children in nonsmoking households<sup>12</sup> and are more likely to become smokers in adolescence or adulthood.<sup>13</sup> Eliminating smoking at all times on child care premises is the only effective way to protect children in child care from the hazards of secondhand smoke.

### What is “thirdhand smoke” and how can it affect the health of children in child care?

“Thirdhand smoke” is residual contamination from cigarette smoke toxicants that can linger on surfaces long after cigarettes have been extinguished. Studies have shown that days, weeks and even months after a cigarette was smoked, harmful particulates remain on countertops, floors, upholstery, carpets, clothing and other surfaces and fabrics.<sup>14</sup> Infants and children are especially susceptible to thirdhand smoke exposure because of their immature respiratory and immune systems, lower metabolic capacity and tendencies to crawl, play on, breathe near, touch, and mouth

contaminated surfaces, such as floors and fabrics.<sup>15</sup> Day care providers who step outside the home or center to smoke may return from their break with thirdhand smoke on their clothing, and thus inadvertently jeopardize the health of infants and children who come in contact with them.

### **Does the federal government regulate smoking in child care centers?**

The federal government only prohibits smoking in facilities for day care or early childhood development services (such as Head Start) if the facility receives federal funding or is in any way under the authority of a federal agency.<sup>16</sup> The law does not apply to child care services provided in private residences.<sup>17</sup> Facilities that violate the federal law may be subject to fines up to \$1,000, but fines may not exceed 50 percent of the amount of federal funds the facilities receive the fiscal year the violation occurred.<sup>18</sup>

### **How do states regulate smoking in child care facilities?**

Most states contain smoke-free indoor air laws that restrict or prohibit smoking in licensed child care facilities.<sup>19</sup> These laws often define “child care facilities” or related terms as “workplaces” or “public places,” and tend to be more restrictive in commercial day care centers than home-based centers.<sup>20</sup> The smoke-free laws vary among states in terms of comprehensiveness, and even vary within states depending on the type of child care facility.<sup>21</sup> Some policies include provisions that allow smoking in designated areas of the child care facility; others prohibit smoking on the grounds of centers; in vehicles while transporting children; in areas used for the care of children; in areas where food is prepared; or in the presence of children.<sup>22</sup> Several policies specify when and how providers must notify parents of the facility’s smoke-free policy.<sup>23</sup>



### **Can local governments regulate smoking in child care facilities?**

If a state’s law does not preempt local governments from passing smoke-free laws or regulations that are more restrictive than the state law, local governments typically have authority to adopt and enforce stronger smoke-free measures in their jurisdictions. Of course, nothing prevents child care centers and homes from voluntarily adopting comprehensive smoke-free policies on their own.

### **What are some smoke-free child care policy guidelines for states, localities and child care providers?**

- Conduct background research, including state and local smoke-free requirements for child care facilities.
- Clarify the policy goal: to prevent children’s exposure to the hazards of tobacco smoke.
- Use concise definitions and language in the policy.
- Consider provisions that cover all areas of the child care center/home at all times, including indoor and outdoor areas when children are on the premises; in any vehicle used to transport child care children; on field trips and during all other off-site activities and functions.
- Plan a strategic enforcement and implementation process.
- Educate prospective and current child care parents, and child care staff, about the health risks of exposure to tobacco smoke and the benefits of a smoke-free child care policy.

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## Endnotes

- <sup>1</sup> U.S. DEP'T OF HEALTH & HUMAN SERVS., HOW TOBACCO SMOKE CAUSES DISEASE: THE BIOLOGY AND BEHAVIORAL BASIS FOR SMOKING-ATTRIBUTABLE DISEASE: A REPORT OF THE SURGEON GENERAL (2010) [hereinafter SURGEON GENERAL REPORT 2010], available at [http://www.surgeongeneral.gov/library/tobaccosmoke/report/full\\_report.pdf](http://www.surgeongeneral.gov/library/tobaccosmoke/report/full_report.pdf).
- <sup>2</sup> Fed. Interagency Forum on Child and Family Statistics, *America's Children: Key National Indicators of Well-Being*, 2009 (2009), available at <http://www.childstats.gov/americaschildren/famsoc3.asp>.
- <sup>3</sup> U.S. Dep't of Health and Human Services, Nat'l Child Care Info. & Technical Assistance Ctr., *Trends in Child Care Licensing* (2010), available at [http://nccic.acf.hhs.gov/poptopics/trends\\_licensing.html](http://nccic.acf.hhs.gov/poptopics/trends_licensing.html); see also National Resource Center for Health and Safety in Child Care and Early Education, *List of State Child Care Licensure Regulations* (2011), available at <http://nrckids.org/STATES/states.htm> (last visited March 21, 2011).
- <sup>4</sup> National Association of Child Care Resource & Referral Agencies, *We Can Do Better: NACCRRAs Ranking of State Child Care Center Regulations and Oversight—2011 Update* 8 (2011), available at <http://www.naccrra.org/publications/naccrra-publications/we-can-do-better>.
- <sup>5</sup> For example, religious or church-based day care centers, as well as small home-based day care programs, are often exempt from regulations or licensing requirements other than basic health and safety regulations. Centers for Disease Control & Prevention, *State Tobacco Activities Tracking & Evaluation System, State Smoke-free Indoor Air Fact Sheet: Day Care Centers* (2009), available at [http://www.ttac.org/tcn/peers/pdfs/06.03.10/TTAC\\_STATESystemFactSheetDaycare.pdf](http://www.ttac.org/tcn/peers/pdfs/06.03.10/TTAC_STATESystemFactSheetDaycare.pdf).
- <sup>6</sup> *Children and Secondhand Smoke Exposure*, CDC.GOV [hereinafter CDC, *Children and Secondhand Smoke Exposure*], <http://www.cdc.gov/Features/ChildrenAndSmoke/> (last visited Feb. 20, 2011).
- <sup>7</sup> *Id.*
- <sup>8</sup> *Id.*; see also Michael Weitzman et al., *Tobacco Smoke Exposure is Associated with the Metabolic Syndrome in Adolescents*, 10 CIRCULATION 1161 (2005).
- <sup>9</sup> See CDC, *Children and Secondhand Smoke Exposure*, *supra* note 6.
- <sup>10</sup> See *id.*
- <sup>11</sup> See *id.*; see also Campaign for Tobacco-Free Kids, *Tobacco Harm to Kids F*(2009), available at <http://www.tobaccofreekids.org/research/factsheets/pdf/0077.pdf> (containing cites to dozens of studies and source materials).
- <sup>12</sup> Kimberley Yolton et al., *Exposure to Environmental Tobacco Smoke and Cognitive Abilities of U.S. Children and Adolescents*, 113 ENV. HEALTH PERSP. 92 (2005).
- <sup>13</sup> Margaret Becklake et al., *Childhood Predictors of Smoking in Adolescence: A Follow-up Study of Montreal Schoolchildren*, 173 CAN. MED. ASS'N. J. 377 (2005).
- <sup>14</sup> See, e.g., Georg E. Matt et al., *Households Contaminated by Environmental Tobacco Smoke: Sources of Infant Exposures*, 13 TOBACCO CONTROL 29 (2004); see also Mohamed Sleiman et al., *Formation of Carcinogens Indoors by Surface-mediated Reactions of Nicotine with Nitrous Acid, Leading to Potential Thirdhand Smoke Hazards*, 107 PROC. NAT'L ACAD. OF SCI. 6576 (2010); Jonathan P. Winickoff, et al., *Beliefs About the Health Effects of "Thirdhand" Smoke and Home Smoking Bans*, 123 PEDIATRICS e74 (2009).
- <sup>15</sup> See Adrian Burton, *Does the Smoke Ever Really Clear? A Brief History of THS*, 119 ENV. HEALTH PERSP. A73 (2011).
- <sup>16</sup> Federal Pro-Children Act of 1994 (Public Law 103-227, Title X, Part C.), 20 U.S.C.A. § 7183 (2010), available at [http://www.law.cornell.edu/uscode/uscode20/usc\\_sec\\_20\\_00007183----000-.html](http://www.law.cornell.edu/uscode/uscode20/usc_sec_20_00007183----000-.html).
- <sup>17</sup> *Id.*
- <sup>18</sup> *Id.*
- <sup>19</sup> U.S. Dep't Health & Human Services, Nat'l Child Care Info. & Technical Assistance Ctr., *Trends in Child Care Licensing* (2010), available at [http://nccic.acf.hhs.gov/poptopics/trends\\_licensing.html](http://nccic.acf.hhs.gov/poptopics/trends_licensing.html).
- <sup>20</sup> Centers for Disease Control & Prevention, *State Tobacco Activities Tracking & Evaluation System, State Smoke-free Indoor Air Fact Sheet: Day Care Centers* (2009), available at [http://www.ttac.org/tcn/peers/pdfs/06.03.10/TTAC\\_STATESystemFactSheetDaycare.pdf](http://www.ttac.org/tcn/peers/pdfs/06.03.10/TTAC_STATESystemFactSheetDaycare.pdf).

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<sup>21</sup> National Association of Child Care Resource & Referral Agencies, *We Can Do Better: NACCRRRA's Ranking of State Child Care Center Regulations and Oversight—2011 Update* (2011), available at <http://www.naccrra.org/publications/naccrra-publications/we-can-do-better>.

<sup>22</sup> See National Child Care Information and Technical Assistance Center, *Smoking in Licensed Facilities: State Regulations* (2010) (containing information about state smoke-free child care regulatory requirements).

<sup>23</sup> *Id.*