The Day Care Threat

Day-Care Owners: Changes would be too strict

BY BRAD SCHRADE; JEREMY OLSON

- Care providers fear indiscriminate crackdown as state weighs tougher rules.

Dorothy Sayre has run a home day care for three decades and has always tried to put kids' safety first.

But this fall, after she saw a state proposal to crack down on child-care providers, she began to worry that the state was taking safety too far, in ways that could put people like her out of business.

"I was appalled," she told colleagues at a meeting with state regulators in St. Cloud last month. "Why are they throwing us under the bus?"

Sayre's fears reflect the rising unease and anger among Minnesota's 11,000 home day-care providers as they brace for the prospect of tougher state oversight in response to recurring infant deaths and safety infractions.

In e-mails, petitions and public hearings, many providers are girding for a fight when the Legislature convenes in January, and their opposition could complicate an ambitious effort to make child care safer in Minnesota.

Among the tougher proposals are higher staffing levels at home day cares and stiffer
penalties for facilities that violate safe-sleep guidelines.

Many providers acknowledge that a rising number of infant deaths in Minnesota child care is troubling. But they argue that indiscriminate new rules would only raise costs for parents and force good providers to shut down. The state should focus on sites that have had problems, they say, not meddle with those that have good track records.

"Everyone's main priority is the children," said Mary Ksiazek, a leader of the Ramsey County Family Child Care Association. "We understand that. But don't make us the scapegoat."

As they work to improve safety, state regulators must strike a careful balance: how to reduce deaths and safety violations without overburdening child-care providers, who are critical players in the state economy and essential to thousands of Minnesota families.

"If I'm concerned about the welfare of our youngest children, then I have to be concerned about the people who take care of them," said Commissioner Lucinda Jesson of the state Department of Human Services (DHS). "So if I want good things for kids, I've got to make sure we have a really good, solid family day-care provider network."

Sharp increase in deaths
A report by the state's "mortality review" panel last summer followed a Star Tribune investigation that identified a sharp rise in child-care deaths in Minnesota since 2007. Children have been dying in licensed home day cares at a rate of roughly one per month for the last five years, the newspaper found. Nearly half the infant deaths since 2002 involved violations of safe-sleep rules; investigators also found overcrowding and poor supervision in some cases.

The rise in deaths surprised state officials, who responded this spring with warning memos to providers and county regulators. But authorities are still struggling to convince many in the provider community, a loose-knit group of sole proprietors -- many with long experience and strong opinions.

Providers say there could be other explanations for the rise in deaths, apart from safety problems in their profession. They serve lower-income families, they say, whose children are more at-risk than those from families that can afford more costly center-based care. At a public meeting this fall, one provider's husband said the number of deaths didn't seem high considering the thousands of children in care.

"There still are some people who are doubting the science here," said DHS Inspector General Jerry Kerber.

At a public hearing with providers last month, Kerber tried to dispel that skepticism. Minnesota has 91,000 children in licensed in-home care, also known as family child care, versus 60,000 receiving care in larger centers. Of the 86 deaths since 2002, 83 occurred in family child care.

"There's almost 28 times as many deaths," Kerber said. "There's disproportionate representation. I think we can all agree."

The reaction of day-care operators saddens parents like Robert Fletcher, who lost his 3-month-old son, Blake, after a Park Rapids child-care provider ignored safe-sleep guidelines and placed the infant facedown for a nap in 2008.

"There has to be something done," Fletcher said. "This has been a long time coming. This is just people resisting change."

'Above and beyond'
To providers such as Joan Finley, a crackdown on the entire industry seems unfair and
counterproductive.

In 15 years running her Apple Valley day care, Finley has never been cited for a safety violation. Her training and adherence to safe-sleep standards exceed state requirements.

By 10 a.m. one recent morning, she had taught nine preschoolers about Pilgrims, helped the children draw fall harvest pictures, broken up fights over sharing fireman hats, prepared a snack of berries and bananas, and brought out musical instruments for a dance -- all while an assistant coaxed a fussy infant to nap.

Providers who have learned to manage the daily challenges of child care, she said, shouldn't be penalized with onerous rules or required to take fewer children.

"It just really stinks for [those of] us who have gone above and beyond," she said. "I need to support myself and family, and I already run a top-notch program."

Other providers blame a faulty regulatory system, arguing that state and county budget cuts have led to fewer inspectors and inspections in some counties.

While the state is on pace to shut down a record number of home day cares for safety hazards this year, providers argue that this is a symptom of the problem. Inspectors no longer visit as often, they argue, or help head off problems before they become crises.

"Maybe one of the reasons there are more deaths now is that people rely on the fact that someone isn't coming out every six months to check on them," said Kristine Beckfeld of Coon Rapids, who closed her home day care in August partly because of growing frustrations with state regulation.

Providers also complain that enforcement decisions differ from county to county, inspector to inspector, and they harbor a deep mistrust of the state.

"You're dealing with, for lack of a [better] term, the big ugly dog -- DHS," day-care operator Mike Jay said at a provider organizing meeting in Brainerd in early November.

Balancing act

Among providers, the review panel's most controversial recommendation is to cut the number of children that any one adult can watch. The current ratio ranges from 10 to 12 children per provider. Under certain scenarios, the recommendation would slash that ratio in half -- dramatically cutting providers' income.

At least one national study found some deaths in child care involved providers caring for too many children. But a survey by the Minnesota Licensed Family Child Care Association found that nearly 90 percent of providers didn't think a lower ratio would help. Fewer paying families, they argue, would force them to close or raise prices.

Both are significant concerns in a state with some of the nation's most expensive center-based child care. Home-based care offers a more affordable alternative, and is sometimes the only care available in rural areas. But the state has already seen a 17 percent drop in family child-care providers since 2003.

DHS officials say none of the recommendations is final and that they don't plan to pursue reduced child-to-adult ratios this year.

Providers don't oppose all reforms. Finley, for one, supports increased training, a requirement that providers carry liability insurance and additional enforcement of safe-sleep practices. The state requires eight hours of training per year; she estimates she completes more than 60 hours of training every year.

Others want clearer guidance from state and county licensors along with more inspections -- and an enforcement system focused on fixing problems, not fixing blame.

"The only way you are going to get that is to form a ... partnership with providers, so we can look at DHS as a resource and not a monster," said Kathy Stevens, a longtime provider near Brainerd. "I'm scared to death of them."

Agency officials say they want broad support for any proposals they take to the Legislature. But in addition to skepticism from providers, they have received little support from
a persuasive group -- parents.

In Kansas, parents provided crucial momentum for child-care reforms at the state Legislature two years ago. Infant deaths have subsequently declined in that state.

Jesson said providers, parents and inspectors can all help reduce safety risks.

"First thing we need to do is have providers follow the rules we already have," she said. "There are a number of situations where that's not happening. We need parents to be more aware of the safe-sleep practices and get more involved. We need to do a better job with training our licensors, so we are sending a consistent message to providers."

One proposal, introduced earlier this year, would require a doctor's note if parents want their provider to depart from safe-sleep guidelines. Minnesota required that before 2007, but the Legislature loosened the rule that year. Coincidence or not, the number of child-care deaths has increased since then.

The author of that proposal, Rep. Patti Fritz of Faribault, said she will pursue the bill again in the next legislative session, but hasn't decided on other reforms. She cautioned against trying to "fix" everything at once. The unease among providers doesn't surprise her.

"This is democracy," she said. "Nothing is ever just a slam dunk. This is their livelihood."