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## Introduction:

- Thank you for the opportunity to speak today. Topics of Modernization and FCC businesses are close to my heart & life. We are appreciative of this advisory Committee as you have noted, women are impacted on both side of the challenge of child care. Your fact sheet and comments made on Aug 28 hearing is spot on.
  - FCCs are the most affordable, care setting, both in establishing, overhead and therefore cost to families. I've been stating this publicly for many years and have been dismissed in the discussions. Appreciate the statistics you present.
  - Great loss has increased strain on families and communities, especially in greater MN.
- Provider – 27 years in St. Paul
- Public Policy/Lead & Care have participated in many tasks forces and working groups.
- The topic of child care and Family Child Care is complicated and as unique as the businesses and providers themselves. We are not a cookie cutter setting.
- FCC are focused on the care of children & families and want to ensure the health and safety of these children in our care. There are settings which may not be appropriate or safe for children, these need to be appropriately addressed. FCCs frequently feel overburdened with regulations and do not have enough direct support to manage our businesses. FCCs are frequently in a position of sifting sand, trying to run a business, feeling undermined at every turn.
- **Then the Modernization Project came along.**
  - **FCC task force actions** – I was on the task force. There was agreement for the need of compiling 9502 & 245A. 9502 Rule – hasn't been modified as it is Rule and can't be w/out process, 245A has continued to update and make changes. We listened to NARA & DHS/OIG present how this process would work. It was to be collaborative, Legislative not DHS/OIG rule making. **The current process did not meet those expectations.**
  - **Ineffective processes, lack of true engagement and understanding brought poor product. The final product goal was to be *child centered, family-friendly and fair to providers*" Sec 81 (c). The 2<sup>nd</sup> released product was none of these.**
    - DHS should not have been surprised with the response from FCC providers. These are our homes, our families and the burden of even thinking of these standards being considered is leading to more closing in anticipation and broken relationship w/OIG. Again, FCCs work to ensure the safety and care of children, balancing with the reality of our lives. We would not be able to fully engage and care for children with the concepts presented in the draft.... there wouldn't be time. These could lead to poor supervision and lack of true care for children.
    - Sen Pappas, you mentioned in an earlier hearing that a provider stated to you that we can no longer have dogs/pets. This is due to DHS/OIG presenting the 2<sup>nd</sup> draft as a final revisors bill. Our experience is that typically when these are presented the

wording is final. I've had legislators unwilling to take on needed change because 'DHS doesn't want it that way'.

- **DHS publicly stated during engagement sessions that -Lowest level of trust between DHS & FCC providers.** DHS seems to have not taken the potential impact prior to release.
  - **Our first question to DHS staff 5 days after the release of the 2<sup>nd</sup> draft was directly how will DHS will show/build trust so that providers know their voice makes a difference and are being taken seriously.** The response was "you'll know it when you see the next/final draft" (this was said with much emotion). This final draft is what was to have been submitted to the revisors office and considered in legislation.
  - Given the content of the 2<sup>nd</sup> draft and the environment of FCCs & DHS/OIG, Lead & Care began a petition to delay until 2026 within 7 days of release of 2<sup>nd</sup> draft.
    - We were shocked and fearful of the FCC industry attempting to have enough engagement, time effort needed to enter the 2025 legislative session prepared to engage with legislators and present testimony to make a difference in what DHS/OIG was bringing forward.
    - Proud, not surprised, to the extent that FCCs stepped up. Also appreciative to others who spoke up and OIG agreeing to the set aside for more work, it needs so much work.
    - **We believe the 2<sup>nd</sup> draft should never have been brought forward in the form and manner it was. The impact on the FCC industry has been disruptive at least, upheaval and damaging at most.**
  - **What was wrong with the process? Lack of collaboration, low trust and control of information by DHS/OIG.**
    - There was a 1<sup>st</sup> draft, 2.2023. This is indicative of what builds distrust of providers regarding DHS/OIG. The review of this 1<sup>st</sup> draft was only for a select list for input, it is unclear what they reviewed. We do know that Center associations were included, no FCC associations. When asked, DHS/OIG said no meeting dates and no meeting minutes. **However, Draft was increased by 30 pages before 4.2024 draft.**
    - Appears to have been no neutral 3<sup>rd</sup> party consultant. NARA was to work on the regulations. If they did engagement, it was not after the 2<sup>nd</sup> draft was built (if then). DHS staff apparently did all the engagement except for one (1) Foundation.
    - Surveys, as even stated by DHS staff, were poorly developed, yet the results are being used to set other aspects of the project such as abbreviated inspections and Tiered system. **Most egregiously, the content which received the #1 position of most needing changed was ratios. DHS/OIG stated that they would not be considering ratios.**
    - Rule Making has a specific process, general changes to law are not rule making, this project is to be legislative not rule making. Some legislators have stated that 'this is how DHS does rule making'. It's not unless legislators allow the voice of DHS/OIG to be the given direction. **We need legislators to oversee**

**this content by listening to all stakeholders and ensuring a level playing field.**

- **So, what's wrong with the content of the 2<sup>nd</sup> draft?** Oh, so much. The most apparent thing is that 'based on best practice' as stated in the legislation, we didn't think it meant the highest attainable standards must be set. **Common understandable practice, ensuring safety which can be implemented and have fair oversight should be the basis.**
  - Minnesota has a quality rating system, Parent Aware. Licensing is for health and safety, not quality.
  - NARA was responsible for sharing the rule development from National Standards. Many of the standards presented are beyond national standards, not sure where they all came from!
  - Interestingly, the FCC draft has standards higher than the center expectations and is not even consistent. **If these were 'best practices' why not in both regulation models?** (testing soil for lead, disinfecting refrigerators monthly, pet hair, etc.).
  - **Disrespectful to the actual FCC setting. Most frequently, these settings are our personal homes, and we are a sole proprietor/provider. We set up the environment and it may not be for every family. We have pets, they are a part of our families and our programs. When interviewing potential clients, they are aware of all aspects of our program and if it doesn't match with their values then they choose to not enroll. We are not a one-size-fits-all.**
- **What's next?** FCC providers, feelings of being overburden have grown exponentially, many are already closing businesses. We are concerned that the OIG is going ahead in the same approach as previously taken. This will not bring different results. "Insanity is doing the same thing over and over again and expecting different results."

**Solutions?**

- Utilizing a 3<sup>rd</sup> party consultant to facilitate engagement such as was done by the SMIF foundation changes the full conversation.
- We need legislators to take the lead in passing legislation, this is not DHS rule making.
- Need to ask the question *what is the problem which needs to be solved?*
- **Improvement needed to the working relationship between OIG & FCCs is critically needed.** The recent webinar was a listen only, participants could not see who else was on, see how many others were on, see questions being asked and some were not asked.

- **Why are providers leaving? Reasons are beyond those attributed to retirement and lack of income.**
  - **FCCs are first business owners, high % of women, often discussed as if employees, we are not employees.** Closing a business is not the same as retirement. FCC is often a lifestyle, hence why so many continue for so many years. Income is based on running a business, not figuring out as an hourly wage. Businesses are unique so income is varied. Some run ‘full’, others choose to run small. The frequent message of ‘low wages’ is not an incentive to enter industry. We can make a decent living if that is our financial goal the forces pulling against us are diminished.
    - **The support set forward to ‘assist FCC’ businesses doesn’t always seem to understand our businesses (such as the hourly wage and retirement). Even with these investments there continues to be a decrease in FCC no matter what the investments and systems put in place have been. They aren’t working**
    - **I am a trainer & course writer and have 2 approved courses. Inspections and reading and understanding Rule 2.** This is from a practical view as a provider based on factual documentation/experience from DHS/OIG. Not theory.
  - **Modernization project is a symptom of bigger challenge with the delegated license. Lack of positive relationship with DHS/OIG, lack of clear communication,** many of the regulatory challenges faced by LFCC programs stem from DHS’s poor management of county-delegated regulatory processes. Those difficulties trickle down to LFCC programs in the form of poor communication and inconsistent application of regulations and strain relationships. **This relationship has dynamically shifted over the past few years with staffing changes, COVID, etc.**
    - **Manager position open for over 8 months, new staff has been engaged**
    - **OLA Report released 2.240 regarding the states support to counties** showed the communication is inconsistent with licensors, licensors are not required to attend or review the information. This leaves the licensors not up to date. Though the question could be asked why are so many interpretations and changes to implementation?
      - **Leads to inconsistency in the counties, shaky ground for FCC providers. Providers are left being the correctors/educators of the licensors.** Recently a provider was told by their licensor that they must supply a document for a background study, if not a correction order would be issued resulting in over \$400 fines and public record. The provider tried to communicate the correct expectation, they finally caved to the licensor to not get the correction orders. The licensor was finally corrected by DHS.
      - Recently it was discovered that a county licensing system has been requiring this signing of a privacy release form be relicensed. This is not a required form. This form is only for maltreatment accusations. When brought to the OIG offices attention they have indicated that they have ‘discussed’ with the licensing agency but will not be informing providers that they signed a legal document which is not required.
    - **Currently interpretations and implementations are not fully shared directly with providers, leads to confusion and setting up for correction orders and**

**finer.** A few recent examples include a direction from Commissioner Harpstead for **application of rule to the providers own children**, game changer. FCCs often start these businesses to be able to be with our own children and manage expenses for child care. This new direction gives more flexibility to our families and children. OIG has stated that they have shared with licensors (which providers have found inconsistent) and **will not be sharing directly with providers.**

- **DHS/OIG licensing process is experienced as punitive and unjust**, why would anyone open their home up to potential personal impact. **Providers spend \$\$'s and high energy to clear reputation to continue in business.**
  - Correction orders are not always correct – reconsiderations are taking up to 18 months to overturn, hard to get off our records.
  - Licensing Actions are presented as ‘done’, letter of accusations is made public and left of the FCCs record for long lengths of time. We are considered guilty without fair recourse.
  - Administrative Law Judge ruling is not final and goes back to DHS/OIG, which made the first determination. **After negotiated offers and extensive time/effort and \$\$'s by providers.**
  - **Even when overturned, letters and details continue to be made public. An FCC I worked with for 2 years shut down, finally exonerated by ALJ, DHS/OIG upheld that ruling. However, the initial accusations stay on public record. She was working to be relicensed, gave up as likely accurate, didn't believe clients would come to her program seeing the accusations.**

○ **Solutions:**

- Work from 2024 OLA report on State support to counties to improve the county delegated licensing system, including required ongoing communication to Licensors be required. Potential legislative requirement.
  - **DHS communicate directly w/providers, for ‘interpretations’** within 2 weeks of changes and communication with licensors. **We can't be expected to do what we are not informed about.**
  - Restructure consequences system to be fair equitable
    - ALJ ruling is not final but back to DHS for final decision
    - Restructure postings on Licensing Information Look up
  - DHS should take oversight responsibility for licensors' poor actions. Providers shouldn't be gate keepers; counties don't see themselves as the supporters of licensing from the regulatory aspect. Someone needs to be!
  - Documentation updated on DHS provider help web site.
- **STOP COMPETING START PARTNERING: CREATE A TRUE MIXED DELIVERY SYSTEM**
- Build real and meaningful “mixed delivery” into all provision of public school-based Pre-K.
    - Many states are doing this. Minnesota has had access to millions of dollars via the federal preschool development grant program to develop a true birth to five mixed delivery system yet virtually 100% of school-based pre-kindergarten is delivered in

school settings only. This diminishes parent choice, exacerbates infant and toddler care shortages, and drives up child care costs.

- **Re-evaluate support funding system**, what is it supporting, what is priority of state (i.e Certified Centers receive same Great Start Comp grant yet have few regulations).  
**Restructure general grants** such as Parent Aware and Regional Grants to be a 90% upfront funded like the facilities grant. A \$3,000 grant is difficult to manage since we must expend 100% for a reimbursement often months later.
- **Increase the penalty for illegal care settings**
  - While the state is hyper-focused on regulating LFCC programs, it has low penalties for the illegal provision of group child care. This reduces the incentive for programs to become licensed and introduces competition from illegal care providers. Ultimately, though, the presence of illegal group child care raises the risk that Minnesota's young children will be in settings that are not even meeting basic health and safety requirements, not to mention missing opportunities for building school readiness skills.
- **Create a position at DEED to monitor the number of LFCC programs, to set goals to increase the overall number, and to coordinate strategies across agencies to reach those goals.** DEED is the best home for this work because they understand what it means to work in partnership with small businesses.
- **Funding for FCC Networking**, direct peer support is what makes the difference
- **Create a resource and education program for parents** in addition to what is offered at ParentAware.org. Undertake efforts to educate parents about the variety of out-of-home care, how to choose it, and the danger of maltreatment. This information could be delivered via pamphlets at hospitals, clinics, food shelves, libraries, etc. and would be.

Child Care is a heavy responsibility for the state, counties, businesses and providers. We must keep children safe, families supported and the future of our children bright.

We need to have leaders take this challenge to task. Those of us working in the field are at a disadvantage to recruit FCCs considering the environment where we feel undervalued and not understood as businesses. Others are carrying the message, not always accurately.

We obviously have a lot to say, our experiences have not been clearly heard in a manner to create a change in the industry. We welcome on-going discussion and problem solving to stop the bleed of FCC businesses and rebuild the industry to meet the needs of Minnesota's families, children and communities across the state.

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