

OPEGA Recommendation for Project Direction

DHHS Division of Licensing and Regulatory Services Child Care Licensing

Background

On February 28, 2014, the GOC voted to place this topic on OPEGA's work plan after considering a request by the Chairs of the Joint Standing Committee on Health and Human Services. OPEGA began preliminary research in March of 2014. As part of the preliminary research phase OPEGA has:

- reviewed issues discussed by the GOC at the February 28, 2014 meeting;
- reviewed statutes, rules, and policies related to child care licensing and investigations of child abuse & neglect in out of home settings;
- reviewed public media coverage of the Sunshine Child Care & Preschool Investigation from January and February of 2014;
- spoke with and reviewed information provided by former DLRS employees;
- reviewed Child Care Aware of America's report "We Can Do Better" 2013 Update regarding child care program and oversight standards and Maine's ranking among the states;
- reviewed historical and current budget data for DLRS Child Care Licensing;
- reviewed historical and current DLRS organizational charts;
- reviewed previous and current DLRS strategic plans;
- interviewed DLRS management to learn about recent management reviews and investigations of DLRS and its Child Care Licensing Unit; and
- developed a general understanding of data available in Maine's Automated Child Welfare Information System (MACWIS).

Summary of Preliminary Research and Analysis

The Department of Health and Human Services Division of Licensing and Regulatory Services (DLRS) is responsible for licensing and monitoring of child care centers, family child care providers and nursery schools. Within DLRS, the Children's Licensing and Investigations Unit oversees child care licensing and the investigation of child abuse and neglect in out of home settings, including child care settings.

Community Care Workers (CCW) are responsible for inspecting licensed child care providers and license applicants. CCWs also investigate complaints alleging noncompliance with license rules. When there are findings of noncompliance, DLRS now issues a statement of deficiency (SOD) requiring the provider to develop and submit a plan of action that includes a timeframe for correcting deficiencies. According to DLRS management, SODs were introduced early in 2013. CCWs also provide technical assistance to providers and make unannounced visits to monitor compliance with licensure requirements. Currently there are 1,253 family child cares, 727 child care facilities and about 78 nursery schools for a total of 2,058 licensed child care facilities.

DLRS may issue a Conditional License when there are ongoing uncorrected deficiencies or findings of serious noncompliance issues during an inspection or unannounced visit to a child care provider, or it is otherwise determined to be in the best interest of the public. A Conditional License includes a directed plan of action written by DLRS that the provider must follow. If the provider does not correct the deficiencies as per the Conditional License, the license is voided or revoked. If very serious issues are identified, DLRS may, with the approval of the DHHS Commissioner, issue an administrative suspension that immediately closes a facility for up to 10 days pending further investigation or prior to obtaining a court ordered emergency suspension.

Out of Home Investigators within the DLRS Community Programs unit, are responsible for investigating complaints alleging child abuse and/or neglect in out of home settings, including licensed child care facilities and nursery schools. Substantiated allegations can result in a corrective letter, issuance of a Conditional License or license revocation.

In January 2014, DLRS findings of child abuse and neglect at a child care center in Lyman were publicly reported. These findings were from investigations in 2012 and again in 2013. The Division took no enforcement action in 2012 when there were findings of abuse and neglect. In 2013, a second investigation also had findings, but DLRS took no action for several months.

This case brought into question serious concerns about the safety of children in child care facilities as well as DLRS' performance with regard to the timeliness of investigations of allegations of abuse and neglect, and the timeliness and appropriateness of enforcement actions when investigations resulted in findings. According to some former DLRS employees, the Lyman case was not unusual. They reported a lack of enforcement action by DLRS on findings of licensure violations, high CCW caseloads that adversely affected their ability to perform their jobs and an unhealthy organizational culture causing employees to fear retaliation, including dismissal, for bringing forward issues of concern.

In response to the Lyman case, DLRS conducted an internal investigation and found both system and human errors to be root causes. The Division is currently implementing a strategic plan for FY14-15 that management feels will address many of the issues brought to light by the Lyman case. The strategic plan includes five broad initiatives: Resource Utilization, Accountability, Work Force Development, Provider Relations and Regulations/Statutes. Each initiative has a number of objectives associated with it. For each objective, the plan outlines action steps by calendar quarter for January 1, 2014 through June 30, 2015.

Some of the objectives DLRS is working on or has recently implemented are:

- hiring and training additional staff to reduce caseloads;
- implementing performance metric reporting;
- establishing a licensing action advisory panel;
- developing standard operating procedures and work flows;
- writing supervisor job descriptions;
- developing a web portal for parents to access information;
- instituting a differential monitoring program;
- developing an amnesty program for unlicensed child care providers who opt to seek licensure; and
- assessing the need for out of home investigation rules different from those of the Office of Child and Family Services.

DLRS provided OPEGA with a progress report as of June 15, 2014 for each objective (attached). In May, DLRS added 16 new positions including 13 CCWS, 2 supervisors, and 1 clerical position, using federal Child Care Development Block Grant funds (see attached June 2014 organizational chart). DLRS has hired and trained the new personnel. Currently the 13 new CCW positions are limited period, expiring in May 2016. DLRS plans to make these permanent positions in the next biennial budget. With the new CCWs, caseloads are now down from 180 to 82.

The Division has also begun to implement performance metrics for staff. Examples include making initial contact with complainants within 5 days of approval/assignment of a licensure complaint, requiring a narrative to be documented in the case file within 10 days of a complaint, and completing inspections of licensure violations and Out of Home Investigations of allegations of child abuse and neglect within 35 days. DLRS has also established the license action advisory panel and it meets weekly to consider enforcement actions; however policies and procedures for the panel have not yet been developed. According to DLRS, parents can now call or email the Division and obtain a child care facility's licensing history.

OPEGA's Recommendation

Based on our preliminary research, OPEGA recommends delaying further detailed review for one year. DLRS has made some important changes to its organizational structure and licensing and enforcement processes. In addition, DLRS has many other changes in progress that it believes will improve the Division's functionality and ensure the safety of children in child care facilities. It is our assessment that the actions taken and planned will, if effectively implemented, address the concerns that led to this review topic being placed on our work plan. However, these changes, which are very recent or still in progress, have not been in place long enough to conduct a meaningful review of their effectiveness.

A year from now, OPEGA could assess whether DLRS implemented the specific objectives in the FY14-15 Strategic Plan, and if so, how well they are working to improve DLRS' performance. An OPEGA review in one year could also examine the extent to which the Division's practices, policies and procedures are adequate to ensure complaints alleging noncompliance of child cares with licensure requirements or child abuse or neglect are investigated and addressed timely and that children in child cares are safe and not at-risk.

Over the coming year, the Legislature may want to consider monitoring DLRS' implementation of its Strategic Map objectives via the Health and Human Services Committee or the GOC.

As previously agreed by the GOC, the issues regarding DLRS' organizational culture and treatment of employees will be incorporated into OPEGA's separate review of DHHS Organizational Culture, which is on the current work plan.

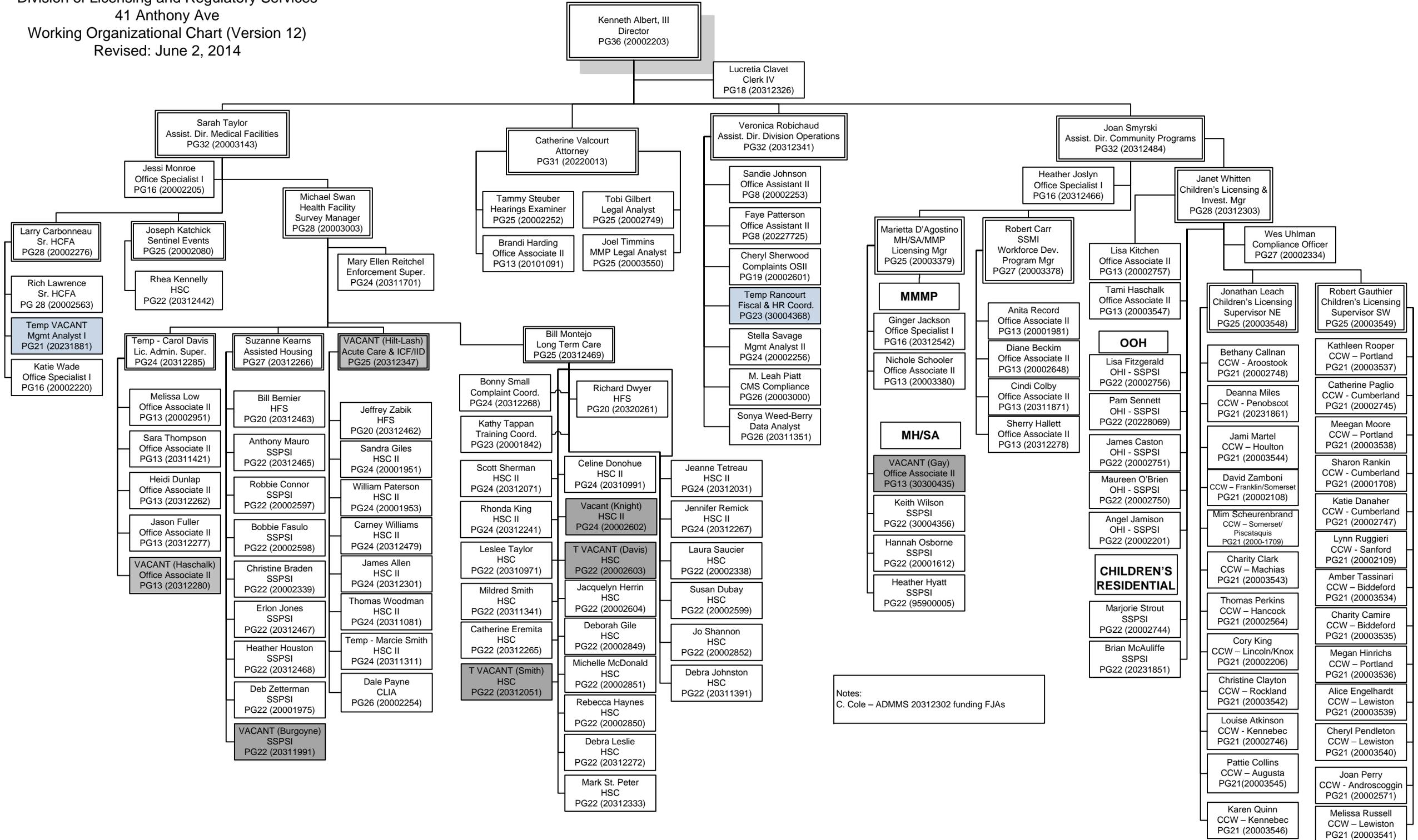
DLRS - Strategic Map SFY 2014-15
Unit: Children's Licensing & Investigational Services

STRATEGIC INITIATIVE	Objectives	Action Steps January - March 2014	Action Steps April - June 2014	Summary Status June 15, 2014	Action Steps July - September 2014	Action Steps October - December 2014	Action Steps January - March 2015	Action Steps April - June 2015
RESOURCE UTILIZATION 1. Ensure efficient use of resources to achieve Division objectives.	Implement / amend performance metric reporting.	Determine performance metrics for all children's licensing programs	Enhance existing reports & create new to ensure all metrics are captured.	Metrics identified for each program. Ongoing analysis of Macwis (and system users to identify areas in which there are variations in data entry that impact validity of data. Children's residential identified need to create a central office process for tracking data not stored in Macwis mirroring child care.	Collaborate with CHPII to identify trends/patterns in data	Develop comprehensive monthly report for senior management and unit staff. Data will be utilized as element of staff's annual job evaluation.	Assess data to ensure all expectations are reasonable and attainable by staff	Modify expectations if needed
	Develop electronic survey process	Identify cost related to issuing licensing staff tablets	Meet with OIT to discuss timeframe & cost related to creation of electronic survey.	In discussion phase only. No progress with the development of an electronic survey tool. Will follow implementation of Differential Monitoring.	Create workgroup to review current survey and identify needed changes.	Draft new survey tool(s), incorporate feedback from all staff, share with senior management	Purchase tablets. Collaborate with OIT to put survey tool(s) in electronic format	Train staff with new technology and survey process
	Implement licensing action advisory panel	Identify necessary participants for advisory panel	Develop policy and procedural guidelines for advisory panel. Set day and time established for panel participants.	Compliance Advisory Panel (CAP) established, meeting weekly to determine enforcement actions. Need policy and standard operating procedures related to CAP.	create written feedback form for each review and begin regular meetings	Assess process of advisory panel, strengths and challenges and provide feedback to senior management	Make changes to process if necessary and implement changes	Provide summary of first year to include all cases reviewed and outcome/decisions
	Develop risk assessment scale to augment survey process	Identify work group participants	Contact other States who use a risk assessment tool to help guide the development of Maine's tool.	Researching what other states are using for a risk assessment tool and will embed in the Differential Monitoring survey tool.	Identify the greatest risk factors, and common deficiencies for Maine child care providers.	Rate child care licensing deficiencies and risk factors by severity to guide survey frequency and intervention	Create risk assessment tool and pilot with selected staff and random sample child care providers	Assess data from pilot, make adjustments if necessary, fully implement with all child care providers
	Develop a correspondence management process (signatures)	Identify documents/correspondence in need of supervisory review and signature	Review current form letters and correspondence, make changes as necessary	Continue process of editing existing and develop new standardized correspondence for the unit. SODs and Licensing Actions processed and tracked through central office management.	Development of policy for external correspondence for licensing and OOH	Monitor to ensure compliance		
ACCOUNTABILITY 2. Develop formal infrastructure to (1) measure and mitigate risk; (2) measure and certify compliance (regulatory, financial, contractual); and (3) provide effective and efficient management decision support.	Develop Standard Operating Procedures and Work Flows	Identify work group participants for each team	Draft SOP and work flow in work groups for each team	Draft policy and standard operating procedures in early development.	Present drafts to larger unit for feedback/contributions	Implement SOP and work flow	Assess through QA and supervision adherence to SOP/work flow procedures.	Assess SOP and work flow to ensure most effective and efficient for unit.
	Documented enforcement strategies, sanctions, fines	Create excel spread sheet to document all enforcement	Identify who will update document and who will be responsible for distribution	Office Associate's for Children's Licensing are tracking enforcement for child care. Need to develop system for children's residential.	Develop tool with Sonya WB to graph by worker enforcement actions.	Begin sharing data with staff on a quarterly basis. Identify the outliers (too much/little)	Supervisors and QA review outliers to identify if performance issue or due to compliant caseload	Increase frequency of supervision when performance issue. Identify barriers w/ staff, create work plan, closely monitor
	Review best practice standards from various sources to increase rankings	Identify the ranking sources and standards. Review and assess where Maine currently falls	Identify with senior management the standards that are most critical to meet in the first year with increased work force	Continue to identify national standards and benchmarks striving to achieve. Have decreased caseloads, increased frequency visits, 15 of 16 new CCW's w/ Bachelor level Ed. or higher. 1 employee currently completing BA.	Develop plans to meet standards, share with staff, begin implementation immediately	Assess progress and assess the need for changes to ensure success	Continued monitoring and begin annual report to provide feedback to senior management	Complete annual report for children's licensing to include all programs
	Job function analysis for manager/compliance QA training / supervisors	Review current job descriptions/responsibilities identified	Senior management determine division of responsibilities, write SSPSII (supervisor)job descriptions	Division of responsibilities identified for early stages of employment for 2 new Children's Licensing Supervisors. Critical position (Compliance Officer) currently vacant and covered by Program Manager.	Develop clear & measurable performance expectations for Manager, Supervisors, Compliance Officer	Establish weekly supervision scheduled with Supervisors and Compliance officer	Assess if the division of responsibilities is most effective and efficient. Make changes as necessary.	

DLRS - Strategic Map SFY 2014-15
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WORK FORCE DEVELOPMENT 3. Develop a work force to ensure that DLRS maintains a qualified and sincerely engaged team that is mission focused.	Recruitment and onboard of new positions	Work in collaboration with HR to secure approval and post new positions	Complete interview process, hire top candidates, complete staff orientation training & field shadowing	Completed hiring and formal 2 week training/orientation of CCWs. In process of job shadowing and beginning field work as supervisors determine readiness.	Supervisors establish set supervision at least monthly w/ staff. Complete 3 month evals. JW meet regularly with HR regarding performance of new employees	Complete 6 month evals	Continue to monitor individual strength & challenges through supervision and QA	Annual performance evaluations due for all newly on boarded employees	
	Unit meetings and training schedules	Continue monthly unit meeting w/ entire unit and monthly case review with OOH	Design and deliver a two week training orientation for child care licensing. All staff participate (est. start May 12)	Successful training/orientation completed with full participation from both new and experienced staff. Full unit meetings scheduled monthly beginning 7/31. Individual team meeting monthly w/ direct supervisor.	Identify individual training needs for continued professional development, schedule training.	Supervisors research training opportunities for entire children's team	Develop an annual training plan for staff development opportunities for the coming year		
	Training on consistent MACWIS documentation	JW review current documentation expectations to ensure all areas are covered.	Extensive Macwis training included in new staff orientation training.	New staff received 6 hours of Macwis training in a large group setting with OCFS Macwis training specialist. Providing one on one continued training with DLRS experienced Macwis user.	Supervisors review all workers by random sample from caseload to ensure timely and quality doc. In Macwis	Identify individual training needs to enhance Macwis skills and proficiency			
	SETU training on documentation	Schedule meeting with Kate Carnes, Director of SETU to identify training needs and plan	Work collaboratively with Kate Carnes to develop new staff orientation and schedule trainers	Documentation and writing skills training completed during training/orientation. Further training needed specific to Principals of Documentation.	Supervisors identify staff in need of additional writing skills training, schedule training	Supervisors continue to work closely with identified staff to improve overall quality			
PROVIDER RELATIONS 4. Improve communication and relationships with providers in an effort to enhance regulatory compliance and quality while decreasing the need for enforcement action.	Develop publically facing web portal for licensing actions	Identify funding source	Meet with OIT to discuss timeframe & cost related to creation	In process of writing Business Plan. Identified Child Care Choices web site (UMO contract) as location.	Establish work group with DLRS and OIT, begin meeting	Work group in plan and development stages of designing portal	Continued development, confirm funding source, OIT launch	Monitor and assess usability of web-portal	
	PSA / Amnesty for unlicensed practice	Follow up with DHHS Director of Communications and schedule another meeting	Meet with Director of Communications to create plan to proceed with PSA	Had initial meeting with DHHS spokes person around Public Service Announcement. Need to schedule a follow up meeting to determine next steps.	Determine media source, TV/radio, seek message approval by Communications JM	Record/create PSA and seek approval from Director of Communications	Develop plan w/ supervisors to effectively respond to unlicensed providers who respond in a timely fashion. PSA live	Licensing and OAI respond to unlicensed providers seeking licensure.	
	Children's Licensing Newsletter	Design logo and format for Community Programs -	Present to all staff and elicit ideas for articles, etc..	Community Programs Newsletter in process. Changes within child care licensing to be focus of first edition.	Draft article introducing new staff, geographic coverage areas, and new initiatives	Continue to provide stories/articles/suggestions to Heather Joslyn for upcoming letters			
	Develop disaster preparedness technical assistance	Review National standards for disaster preparedness in child care settings	Assistant Director member of Maine Disaster Mental Health Advisory Committee will raise issue of enhancing child care providers preparedness	Have identified next steps for inclusion of national disaster preparedness in survey process. Have discussed next steps with national partners.	Train selected licensing staff to specialize in providing technical assistance to providers	All staff implement survey tool, assist providers in ensuring plans are well thought out and safety standards are met	Refer providers to specialized staff when needed.	Work with Sonya WB to pull data to verify Maine providers are meeting National recommendations	
	Children's Licensing Forum	Identify work group to develop plan/agenda for annual forums (southern and northern Maine)	Contact providers to seek input regarding their identified needs	Determined need for more than 2 locations for the Child Care forums, will plan evening events which will allow for greater participation. Seeking provider input.	Identify dates of forums and secure location to hold event	Create agenda and invite presenters	Disseminate invitations to providers and other child care stakeholders	Forum, provide feedback/evaluation form for participants, identify areas to improve upon in future forums	
	Pamphlets for parents and providers re licensing actions	Identify information in need of improved communication with parents and child care providers	Consult with child care licensing in other states to assist in development	Child Care Management team has identified the specific information to be provided. Draft of parent and provider handout currently being drafted.	Manager and supervisors draft pamphlets and seek input from staff	Manager and Supervisors modify as necessary and seek input from senior management	Final review and printing of pamphlets, begin dissemination	QA randomly sample providers and parents regarding usefulness of material, seek feedback	
	Development of a differential monitoring program for licensing visits	Identify alternative methods to determine frequency of child care inspections	Research Differential monitoring used by child care licensing in other States	Looking specifically at two State models. Identified a system for ranking deficiencies in current rule. In process of ranking 1, 2, 3 in severity. In discussion phase of inspection sheet revision and creation of abbreviated survey tool.	deficiencies identified during the Federal OIG audit will focus inspections to improve overall health, safety, compliance in child care settings	Identify 3-4 areas for heightened attention during all surveys based on identified trends in deficiencies			
REGULATIONS / STATUTES 5. Develop and implement Regulatory and Legislative Agendas that support the Division's mission.	Children's Licensing Rules	Management and staff continue to place items in parking lot for Catherine Valcourt's review	Determine projected date for revisions to Child Care Licensing Rules	Date for Child Care Rules not yet identified, continuing to place suggestions in "parking lot".	Identify work group and when appropriate begin entering suggested rule revisions into Share Point				
	OOH Rules	Assess need for OOH rules	Advocate for the development of OOH rules separate from statute that are oriented to OCFS/Child Welfare	Have met with AG's Office and Legal Council at Commissioner's office regarding Out of Home Rules. Researching other States and will begin drafting ideas.					

Division of Licensing and Regulatory Services
 41 Anthony Ave
 Working Organizational Chart (Version 12)
 Revised: June 2, 2014



Notes:
 C. Cole - ADMMS 20312302 funding FJAs