# 10 DEPARTMENT OF HUMAN SERVICES

148 BUREAU OF CHILD AND FAMILY SERVICES

Chapter 19: RULES PROVIDING FOR THE LICENSING OF CHILD PLACING AGENCIES WITH AND WITHOUT ADOPTION PROGRAMS

with

Addendum: HOME CERTIFICATION PROCESS

SUMMARY: This chapter outlines the licensing requirements of the Department for child placing agencies plus denial, revocation and suspension of licenses. These rules describe the organization and administration of child placing agencies, personnel requirements, goals of the program and standards for service to the applicant, the child, and the biological and legal parents. Placement requirements, records confidentiality and procedures for dissolution of the agency are established.

1. DEFINITIONS

A. "Adult" shall mean a person who has attained his 18th birthday.

B. "Advertise" shall mean the act of stating in writing that the facility is available and willing to provide an individual with services which will result in the placing or assisting in finding homes for children under 18 years of age for purposes of either adoption or foster care.

C. "Blood relatives" shall mean mother, fathers, sister, brother grandparents, uncles, aunts, nieces, nephews and first cousins.

D. "Case Management" shall mean the implementation of a case plan, and case supervision, including arranging for support services in maintaining individuals in their own homes or substitute living arrangements.

E. "Casework Services" shall mean the combination of activities whereby agency staff carry out the process of assisting people in reaching and implementing decisions for themselves and their children. This process is carried out within a meaningful professional relationship.

F. "Child" shall mean a person under the age of 18 who is not related by blood or marriage to, or who has not been legally adopted by, the licensee or administrator of any child placing agency.

G. "Child Placing Agency" shall mean any facility which advertises itself or holds itself out as finding homes for or otherwise placing children under the age of 18, in homes where care is provided on the basis of 24 hours a day.

H. "Commissioner" shall mean the Commissioner of the Department of Human Services.

I. "Department" shall mean the Department of Human Services.

J. "Facility" shall mean any person partnership, voluntary association or corporation.

K. "Foster Care" shall mean the full time care with provision of those things necessary to assure safe healthful living for the child unattended by parent or guardians, including but not limited to food, shelter and appropriate supervision. This shall not include placement with blood relatives, relatives by marriage or relatives by adoption.

L. "Holding out" shall mean a series of actions or oral statements by a facility which affirmatively communicates the facility's availability and willingness to place or assist in finding homes for children for purposes of either adoption or foster care.

M. "Reasonable cost of services provided" shall mean the cost which does not exceed either the actual cost of services provided to the child to be adopted, the child's biological parent(s), and the adoptive family, or the cost which does not exceed the average cost of those services based on the costs of the total adoption program.

N. "Relatives by adoption" shall mean adoptive mother, adoptive fathers, adoptive grandparents adoptive sister or brother, and the brother or sister of the adoptive parent.

O. "Relatives by marriage" shall mean step-mother, step-father, stepbrother, step-sister, step-grandparents, and brother or sister of step-parent.

2. LICENSING PROCEDURES

A. A facility shall not place children unless it shall have a license issued by the Department authorizing such activity.

B. The governing body and the administrator of the child placing agency shall be responsible for complying with Maine Statutes and all rules adopted pursuant thereto (Title 22 M.R.S.A., sub-title 6).

C. A license shall be effective only at the address given on the license. A change of physical location from which a licensed child placing agency operates shall require written notification to the Department. The Department may re-issue a corrected license for the remaining period of the license.

D. Applications for a license shall be made to the Department on a form prescribed by the Department.

E. If there is a change of operator or administrator or location of the facility, the license becomes void and a new application for a license must be filed with the Department prior to the change, or immediately after the change if the change was not planned.

F. Following the receipt of an application, the Department will evaluate to determine that the child placing agency is in compliance with the rules for child placing agencies specified in Parts 10 through 17.

G. At the time of applications the Department will request criminal history records from the Department of Public Safety, Bureau of Identification, for all persons who are making application for a license.

H. Three letters of reference will be required from persons in the community to assist the Department in evaluating the suitability of the administrator of the agency at the time of the original application.

I. The references shall include two references from persons with training and experience in the field of social work administration to indicate the qualifications and degree of experience of the administrator, and one character reference from an unrelated person. Additional letters of reference may be required at the discretion of the Department prior to the issuance of a license.

J. The applicant may withdraw the application at any time during the application period upon notification to the Department. The Department shall acknowledge all withdrawals in writing.

K. The Department shall have the right to monitor the child placing agency to determine continuing compliance with the rules.

L. Agencies seeking renewal of a license shall make application 60 days prior to the date of expiration in order that necessary licensing procedures may be completed to assure the continuity of the license. A licensing study of the child placing agency with respect to continuing compliance with these rules will be made at renewal time by a representative of the Department.

M. The administrator shall be responsible for reporting to the Department any changes which might affect the status of the license.

N. As part of the application or renewal process, the applicant or licensee shall provide appropriate releases of information so that the Department may obtain relevant information to ascertain whether the applicant or licensee is in compliance with these Rules.

O. In some instances there are no common definitions as to degree of compliance with rules. When such instances occur in these rules, the determination of compliance or non-compliance with rules shall be made at the discretion of the Department.

P. The agency shall cooperate with the licensing department In any investigation involving the agency or persons receiving services from the agency.

Q. The agency shall post the license in a place clearly visible to any person entering the agency.

3. TYPES OF LICENSES

The Department shall issue the following types of licenses.

A. A provisional license shall be issued by the Department to an applicant who:

(1) Has not previously operated the facility for which the application is made or is licensed but has not operated during the term of that license;

(2) Complies with all applicable laws and rules, except those which can only be complied with once clients are served by the applicant; and

(3) Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license term.

B. The Department shall issue a full license to an applicant who complies with all applicable laws and rules.

C. A conditional license may be issued by the Department when the individual or agency fails to comply with applicable law and rules and, in the judgment of the Commissioner, or his designee, the best interest of the public would be served by issuing a conditional license. The Department shall specify what and when corrections must be made during the term of the conditional license.

4. TERM OF LICENSE

A. The provisional license shall be issued for a minimum period of 3 months, or for a longer period as deemed appropriate by the Departments not to exceed 12 consecutive months.

B. The term of full licenses shall be for one year.

C. The conditional license shall be issued for a specified period, not to exceed one year, or the remaining period of the previous full license, whichever the Department determines appropriate based on the laws and rules violated.

D. Regardless of the term and type of the license, the Department shall monitor for continued compliance with applicable laws and rules on at least an annual basis.

5. FAILURE TO COMPLY WITH APPLICABLE LAWS AND RULES

A. When an applicant fails to comply with applicable laws and rules, the Department may refuse to issue or renew the license. The notice of a refusal to issue or renew the license, and a statement indicating the reasons for refusal, shall be in writing and mailed to the applicant.

B. If, at the expiration of a full or provisional license or during the term of a full license the facility fails to comply with applicable laws and rules and, in the judgment of the Commissioner, the best interest of the public would be served, the Department may issue a conditional license , or change a full license to a conditional license. Failure by the conditional licensee to meet the conditions specified by the Department shall permit the Department to void the conditional license or refuse to issue a full license. The conditional license shall be void when the Department has delivered in hand or by certified mail a written notice to the licensee, or if the licensee cannot be reached for service in hand or by certified mail, has left written notice at the agency or facility.

C. Whenever, upon investigation, conditions are found which, in the opinion of the Department immediately endanger the health or safety of persons living in or attending a facility, or served by the facility, the Department may request the Administrative Court for an emergency suspension pursuant to Title 4 M.R.S.A. Section 1153.

D. Any license, issued under this subtitle may be suspended or revoked for violation of applicable laws and rules, committing, permitting, aiding or abetting any illegal practices in the operation of the facility, or conduct or practices detrimental to the welfare of persons living in, attending or served by the facility.

When the Department believes that a license should be suspended or revoked; it shall file a complaint with the Administrative Court as provided in the Maine Administrative Procedures Act, Title 5, chapter 375.

6. SUBSEQUENT APPLICATION FOR A FULL LICENSE

Subsequent to any of the following actions, an application for a full license may be considered by the Department when the deficiencies identified by the Department at the time the action was taken have been corrected:

A. Issuance or voiding of a conditional license;

B. Refusal to issue or renew a full license;

C. Revocation or suspension of a full license; or

D. Refusal to Issue a provisional license.

7. APPEAL PROCEDURE

Any person aggrieved by the Department's decision to take any of the following actions, may request an administrative hearing, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

A. Issue a conditional license

B. Amend or modify a license

C. Void a conditional license

D. Refuse to issue or renew a full license

E. Refuse to issue a provisional license

F. Refuse to grant a waiver of these regulations.

A written request for an administrative hearing must be received by the Department within 10 working days of receipt of notice of the Department's action. Any request for a hearing must state in detail the aggrieved person's reasons for believing the Department's action to be incorrect. If the Department does not receive a hearing request within the time allowed, the Department's action will become final at the end of that period.

8. WAIVERS

The Commissioner or his designee may, upon written request of any individual or agency., waive or modify a provision of these regulations which is not mandated by Maine Statute. The individual or agency shall provide clear and convincing evidence, including, at the request of the Commissioner or his designee, expert opinion which satisfies the Commissioner or his designee that the applicant's or licensee's alternative method will comply with the intent of the regulation for which waiver or modification is sought. Application for a waiver or modification shall be made on forms supplied by the Department and must include:

(1) A statement of the provision for which waiver or modification is requested;

(2) An explanation of the reasons why the provision cannot be met and why a waiver or modification is being requested; and

(3) A description of the alternative method proposed for meeting the intent of the provision sought to be waived or modified.

All requests shall be answered in writing and a record of them shall be maintained. Any waiver or modification granted shall be for a specific period of time not to exceed the period of the license. If the waiver or modification continues to be necessary, a new application for waiver or modification must be made at the time of application for renewal of the license.

9. ORGANIZATION AND ADMINISTRATION

A. The agency shall be located within the State of Maine from which it operates, the address of which shall be filed with the Department.

B. The agency shall have a clearly designated individual or governing body which shall exercise authority over and have responsibility for the operation, policy and practice of the child placing agency.

C. The agency shall file with the Department the names and addresses of at least two persons who are authorized to receive legal process and service on behalf of the child placing agency.

D. The agency shall have on file a written statement of philosophy, purpose, policy for its operations, and geographic area the agency will serve.

E. The agency shall document in its records the actual costs of the services to the child to be adopted, the child's biological parent(s), and the adoptive family, if it bases its fee to the adoptive family on the actual cost of services provided.

F. If the agency bases its fee on the average cost of services, the agency shall document the costs of the adoption program and/or component of the program subject to these rules for which a fee is charged, and shall document the method by which it computes the average cost of the services.

G. The agency shall demonstrate in writing to the Department that it has sufficient funds or a reasonable means of raising funds to discharge its obligations and to assure that the agency can adequately care for children for whom the agency assumes responsibility during the term of its license.

H. The agency shall submit annual operating budgets approved by the Board, or by the Administrator if no Board exists, for the period covered by the license.

I. Members of the governing body, the administrator or operator of the child placing agency, and all staff providing foster care and/or adoption services to children shall report to the Department all children who are suspected to be in circumstances of abuse.. neglect or exploitation, immediately upon becoming aware of the situation. This shall be done in accordance with Title 22 M. R. S. A. Section 4002.

J. Each child placing agency shall have on file a financial agreement with each applicant, signed at the time of application, which clearly states the agency's fee schedule including which costs are refundable and which costs are not. The applicant shall be given a copy of the agreement at the time of application, signed by the agency and the applicant.

K. Each child placing agency shall make reasonable efforts to obtain, prior to placement, complete and accurate medical and developmental information about children being considered for adoption, including medical and genetic birth family information which could affect the child. In the case of international adoptions the agency shall have on file a signed statement of understanding with the applicant about any difficulty in obtaining complete and accurate information because of language and practice differences.

10. PERSONNEL

A. The child placing agency shall have as an administrator a person who shall be responsible to the individual or governing body referred to in section 9(B) for the administration of the agency's policies and program. If the administrator is responsible for supervision of casework,, the qualifications of a casework supervisor must be met.

B. Each child placing agency shall have a casework supervisor, who may also serve as administrator, who shall be responsible for the provision of placing services, foster care services and/or adoption services. The casework supervisor must have:

(a) a Master's Degree from an accredited school in social work with a concentration in casework, or

(b) a Bachelor's Degree from an accredited School in Social Works psychology, sociology, counseling, human development, child development, social welfare or a related field, and three (3) years of casework and/or supervisory experience in a child and family related setting.

C. All staff providing foster care and/or adoption services to children and families shall have:

(a) a Bachelor's Degree from an accredited school in social work, psychology, sociology, counseling human development, child development, social welfare or related field and one (1) year case management experience in professional social work, or

(b) five (5) years of professional social work case management AND fifteen (15) college credit hours in areas of counseling, guidance, psychology, sociology, human development and child development, or

(c) an Associate Degree from an accredited school in social work, psychology, sociology, counseling, human development, social welfare or related field AND three (3) years case management in professional social work.

D. There shall be sufficient staff to give adequate casework services to the child and the families for whom the agency has responsibility.

E. The governing body shall demonstrate to the satisfaction of the Department that all staff have the following qualities to carry out their duties:

(1) Sufficiently good physical, mental, and emotional health to carry out their duties,

(2) Competence in working with children and families,,

(3) Good moral character.

The governing body may do this by requesting medical, psychiatric or psychological reports criminal records and references which are current and specific to the position being applied for.

The Department may request the information referred to in this section for review and approval if no governing body exists.

F. Each child placing agency shall have a written personnel policy which shall include:

(1) Hiring and termination procedures.

(2) Regular evaluation procedures.

(3) Salary scale and benefits.

(4) Job descriptions.

G. There shall be at least one casework supervisor for each eight full time casework staff or any combination of full and part time not to exceed ten casework staff.

H. Adoption services, including placing, assisting in placing, post adoption services, or searches shall not be provided to agency personnel or persons serving as the governing body for two years after they have terminated their employment or governing body status with the agency,

I. Volunteers, consultants and other professionals providing foster care and/or adoption services to children and families shall possess qualifications in accordance with the services they provide, paralleling the qualifications for employed staff providing similar services.

Volunteers, including students, shall be utilized only in conjunction with appropriate supervision, training and orientation to acquaint them with the agency's philosophy, organization, program, practices and goals.

J. There shall be a personnel file on each employee which shall include:

(1) Application or resume,

(2) References (3 written references or reports on reference contacts) which are current to the date of application and specific to the position being applied for.

(3) Annual evaluation reports signed by both employee and supervisor.

(4) Resignation or reason for termination.

(5) Information obtained in compliance with Section 10(E) of the rules.

K. Not withstanding any requirements within these rules, all staff must be in compliance with 32 M.R.S.A. Section 7001 *et seq*.

11. ADOPTION SERVICES

A. The policy and practice of the adoption agency shall be to protect the rights and meet the needs of the children for whom it accepts responsibility. The agency shall offer services to the child,, biological and legal parents.. and the adoptive parents.

B. The requirements which follow are minimal requirements for licensure of child placing agencies.

12. REQUIREMENTS FOR SERVICES TO ADOPTIVE APPLICANTS

A. Eligibility

The eligibility requirements of the agency shall be explained to persons wishing to apply to adopt. These eligibility requirements shall include such factors as residence, age, religion, health, make up of the family, and financial ability to provide for the child.

B. Application

All of the information requested below shall be obtained prior to beginning the Adoption Study in accordance with Section 12 (C) of these rules.

In the application process the agency shall obtain:

(1) A formal signed application.

(2) A medical statement from a duly licensed physician on each applicant based on an examination within the six months prior to the date of application on forms provided by the agency.

(3) Financial data.

(4) Religious data.

(5) A minimum of three personal references unrelated to the applicants who have known the family a sufficient length of time to make a judgment about them.

(6) Releases signed by each adult member of the household permitting the child placing agency to request criminal history records from the Department of Public Safety, State Police, Bureau of Identification, and to request child protective screenings from the Department of Human Services, or releases signed by each adult member of the household directly to the Departments named above authorizing release of criminal history records to the child placing agency and to the Department of Human Services authorizing release of child protective information to the child placing agency and shall obtain those reports.

(7) Releases signed by each adult member of the household permitting the agency to request any adoptive and foster home studies from other child placing agencies and the Department of Human Services. The child placing agency shall obtain those studies.

C. The Adoption Study

(1) The adoption study may be done individually or in groups.

Minimally it shall include the following which shall be evidenced in the adoption study:

(a) At least one visit to the applicant(s) home,

(b) Individual interviews must be seen individually. Individual interviews with the applicants and, if husband and wife, they must be seen individually as well as jointly,

(c) If there are children in the family, they must be involved in the study,

(d) A minimum of three references must be contacted.. at least one of whom must be seen in person if living in the geographic area served by the agency,

(e) Date and type of each contact,

(2) The agency shall reach a decision within six months of the receipt of all the materials specified in section 12.B. and the decision shall be recorded and dated in the adoption study. The applicants shall receive written confirmation of the decision and, if not accepted, shall be given the reason.

(3) The adoption study must be recorded and must contain considerations and assessment of the following and the basis for conclusions on each item:

(a) Applicants' motivation to adopt.

(b) The stability of the marriage of a couple or the stability of the single applicant.

(c) How the adoptive applicant(s) feel about adoption and how it will be handled with the child.

(d) Philosophy and practice on discipline and child rearing.

(e) Expectations of the child.

(f) Attitudes about birth parent(s) and the possibility of children contacting birth parent(s) when they become adults.

(g) Applicant(s) life style and acceptance in the community, degree of isolation and ability and willingness to gain access to necessary support.

(h) Applicant(s) handling of earlier life situation.

(i) If infertile, how the problem has been dealt with.

(j) Applicant(s) feelings toward birth parent(s), including race and color of the birth parent(s) if different from the applicants and the background of the child.

(k) Data on the religion of the applicant(s) and how it affects applicants' lifestyle.

(1) Financial data and management of money.

(m) Relationship with extended family and attitude of extended family toward adoption.

(n) Autobiographical information including education and employment.

(o) Experience with children.

(p) Methods and effectiveness of communication.

(q) Applicant(s) physical, mental and emotional health.

(r) Applicant(s) attitude toward the child's background and willingness and commitment to provide cultural supports for children of different cultural and/or racial backgrounds.

(4) Minimal requirements for acceptance shall include:

(a) A settled conviction on the part of each member of the prospective adoptive family that they wish to adopt.

(b) The applicant must have established a stable lifestyle with adequate support systems for a minimum of two years.

(c) Physical health shall be sufficiently good that the adoptive parents can meet the needs of the child to be placed.

For couples wishing to adopt whose good health may not continue throughout the minority of the child or whose life expectancy may be shorter than the minority years of the child, there shall be established a plan for guardianship of the child in the event that incapacity or death precedes the child's reaching majority age.

(d) Good mental and emotional health.

(e) There shall be sufficient space in the home for the child.

(f) The applicants must have sufficient income to support the existing family and the child they wish to adopt except where the family is seeking subsidized adoption.

(g) The applicant(s) must be at least 21 years of age.

(h) The applicant(s) must be legal residents of Maine. (For interstate placements, see 13(D)).

(5) When a child has not been placed within a year of the date of approval of the study, an assessment of the family and any changes in the family circumstances must be considered, assessed and recorded.

(6) The agency shall give adoptive applicants a signed and dated copy of their acceptance study upon request.

D. Placement

(1) No child placing agency shall approach a family under supervision by another agency about placement for adoption without the written agreement of the supervising agency.

(2) The prospective adoptive parent(s) shall be informed of pertinent facts about the child's health, development and background. The child must be seen by both prospective parents. Both must want the child. There shall be a time lapse between seeing the child and taking the child so that the agency and the adoptive couples are sure about their decision of placement. With a child beyond infancy, the adoptive applicants and child shall meet more than once to become acquainted and got used to one another, except when an international or interstate placement prohibits.

(3) All interstate placements shall be in compliance with the Interstate Compact on the Placement of Children.

(4) The agency shall have a written signed agreement with the adoptive applicants stating the length of the probationary period; the right of the agency to remove the child; the right of the adoptive applicants to have the child removed; and that the child will be fully supported by the adoptive family with no charge to the adoption agency during the probationary period except in the case of subsidized adoption.

(5) When a child is placed for adoption, written information concerning health, background and development, diet, and daily routine shall be given to the adoptive parents.

(6) There shall be a probationary period of at least six months. If the probationary period is extended beyond one year a new written agreement must be formulated between the applicants and the agency which includes the reason for the extension and the length of the extension.

(7) The child and family shall be seen within three weeks of placement and at least within each two months thereafter during the probationary period. At least two of the visits shall be in the adoptive home and shall include both parents. Written reports of these supervisory contacts and visits shall be dated and placed in the agency record.

(8) The agency shall ensure that the applicants understand the importance of telling the child he is adopted and shall review with the applicant(s) how that will be done.

(9) By the end of the probationary period a decision must be made as to whether or not the agency will consent to the adoption. The decision shall be based on the following factors:

(a) The physical and emotional adjustment and development of the child.

(b) The capacity of the adoptive parent(s) to assume the role of parent with respect to the needs of the child.

(10) When the agency decides that it will consent to the adoption, it shall give to the adoptive parents in writing pertinent facts about the child's health.. development and background.

(11) If the agency consents to the adoption, the adoption shall not be considered final until a certificate of adoption and an amended birth certificate have been obtained by the adoptive parents.

(12) If the agency does not consent to the adoption the agency shall immediately make an alternate plan for the child. This plan and its implementation shall be in the best interest of the child.

(13) Prior to the legalization of the adoption all available medical and genetic information on the child and the biological parents shall be placed in the probate court records and shall be supplied to the adoptive parents.

E. Post Adoption Services

The agency shall continue to be available to provide post adoption services as part of their total adoption program and the services shall be related to matters of adoption.

F. Application for Second or Additional Children

(1) Applications for a second or additional child shall not proceed for a minimum of six months after the previous child was placed and a decision has been made that the adoptive parents have demonstrated the capacity to assume the role of parent with respect to meeting the physical and emotional needs of the child previously placed.

(2) The requirements contained in rules 12(A) through 12(E) of these Rules shall apply to applications and studies for second or additional children.

13. REQUIREMENTS FOR SERVICES TO PRE-ADOPTIVE CHILDREN

A. No agency shall accept a child for care with adoption in mind unless:

(1) It has first determined with the parents that acceptance for care is desired by the parents and that it is in the best interests of the child;

(2) There is a reasonable expectation that the child can be legally surrendered and released for adoption; and

(3) The agency has sufficient casework services to assist the parents in a decision regarding the future of the child with full exploration of the alternatives available to all parties.

B. Temporary Foster Care

(1) No child placing agency shall approach a foster family under supervision by another agency about placing a child for foster care without the written agreement of the supervising agency.

(2) There must be a written signed agreement between the agency and the foster parents regarding the temporary nature of the placement.

(3) There shall be a clear understanding between the agency and the foster parents of the role of the foster parents in the adoptive process.

(4) The agency shall have sufficient contact with the foster family and the child to assure the continued appropriateness of the care and that the child's service needs are met. There shall be a minimum of a home visit within two weeks after the foster care placement, and monthly thereafter.

C. Study of the child

The following factors shall be considered in determining the appropriate plan for the child:

(1) Developmental and medical history of the child including physical examination by a licensed physician.

(2) Mental and physical health history of the biological family.

(3) Religious information.

(4) Psycho-socio-cultural factors regarding the child and the family.

(5) Legal custodial status of the child.

(6) Desire and ability of the parents to resume care of the child or to surrender and release the child.

(7) Ability of the child to accept adoption.

(8) Inter-relationships between child, family and environment.

D. Preparation of the Child for Adoptive Placement

(1) No child shall be placed for adoption until all legal impediments have been removed unless the placement has been approved by the licensing agency of the Department, or in the case of out of state placements by the Administrator of the Interstate Compact on Placement of Children, or his deputy, and the family is a licensed Family Foster Home.

(2) No child shall be placed into an adoptive home until the placement has been approved by a licensed child placing agency or the Department.

(3) All interstate placements shall be done in compliance with 22 M.R.S.A. Section 4191 *et seq.* (Interstate Compact on Placement of Children).

(4) Casework services shall be provided to ensure that the placement is accomplished with a minimum of trauma to the child.

E. The agency which has custody of the child, or to whom a child is surrendered and released, or who engages in child placement is responsible for carrying out the provisions of Rule 12 (D) (1-13) or ensuring that they are carried out by another duly licensed adoption agency or by the Department.

14. SERVICES TO BIOLOGICAL AND LEGAL PARENTS

A. Services to parents wishing to consider alternative plans for their child shall not be made conditional upon their surrender and release of the child.

B. Parents who apply to a child placing agency wishing to consider alternative plans for their child shall have made available to them services to assist them in making and implementing an appropriate plan for the child and for themselves. Minimally those services shall include:

(1) Casework services.

(2) Referral services.

(3) Child placement services.

(4) Follow-up services to the parents after implementation of the decision for the child.

15. PROGRAM OF FAMILY FOSTER CARE

A. The following shall govern the admission to care of any child by the child placing agency.

(1) The agency shall not place a child into foster care without the written authorization of the parent other person, official or agency having legal authority to give that authorization.

(2) The agency shall not place a child into foster care without the following information being secured and recorded in the child's record.

(a) Full name of the child and residence when accepted for placement into foster care.

(b) Date and place of birth.

(c) Sex of child.

(d) Name, addresses, telephone numbers, occupations marital status of parents and how they may be reached in the event of an emergency.

(e) Names, ages, and sex of siblings with addresses when available.

(f) Legal status of the child, including custody orders.

(g) Religion of parents.

(h) Medical history insofar as available.

(i) Sufficient information to show why foster care is necessary for the child.

(j) The particular needs of the child and family and how the agency can meet these needs including a plan of care.

(k) Brief life history of the child up to the time of acceptance.

(1) Statement of financial arrangement at the time of acceptance.

(3) The agency shall make provisions to ensure that the child being placed with other children shall be free from communicable disease and is of such physical and emotional health as to be able to accept the program planned for the child.

B. The responsibility of the child placing agency.

(1) No child shall be placed into a children's home for foster care that is not licensed for a sufficient number of children to cover the child(ren) to be placed.

(2) No child shall be placed for adoption unless the family has been approved as meeting rules 12(A) through 12(C) of these Rules.

(3) No child shall be placed into the care of an unlicensed child placing agency or unlicensed child care facility.

(4) The child placing agency which accepts responsibility for a child must provide or arrange for the child's service needs are met.

(5) The child placing agency shall assess at least every six months the continued appropriateness of the plan of care as specified in Rule 15(j) of these Rules, and the service needs of the child and family.

(6) Based on an assessment the plan of care shall be reviewed at least every six months and revised as appropriate.

(7) The child placing agency shall assure that the child and the persons legally responsible for the child shall have the right to private discussions with each other. Other individuals important to the child shall have the right to reasonable visiting privileges according to a plan formulated by the legal custodian and the child placing agency.

C. Discharge from care of any child by the child placing agency.

(1) Discharge of a child from care shall be made only to the persons. persons or agency having legal custody of the child or on the written authorization of one of these.

(2) The name and address of the person, persons or agency to whom the child was discharged, date of discharge and reason for discharge shall be recorded in the child's record.

16. RECORDS

A. Records required by these rules shall be maintained and made available for inspection by the Department and reports shall be submitted as required by the Department,

B. Agency records shall include a copy of each of the following:

(1) Written statement of philosophy purpose, operating policy for provision of services and geographic area served.

(2) A plan for financing the agency and financial accounts, books and records,

(3) Written personnel policies as specified in section 10(F) of these Rules.

(4) A personnel file for each employee as specified in section 10(J) of these Rules.

C. Service Records

(1) Child placing agencies with adoption programs shall have adoption records which include the following information for each separate study and placement.

(a) Formal signed application.

(b) Medical statement.

(c) References.

(d) Financial data.

(e) Religious data.

(f) Written record of the adoptive home study incorporating the components specified in sections 12(C) and 12(D) of these Rules.

(g) Signed placement agreement when child is placed as specified in section 12(D)(4) of these Rules.

(h) Written record of the placement experience as specified in section 12(D) of these Rules.

(i) Documentation of completion of adoption as specified in section 12(D)(9) of these Rules.

(j) Written record of post-adoption services.

(2) There shall be records of service to biological and legal parents which contain the following:

(a) Intake information.

(b) Written record of services provided as in section 14(B) of these Rules.

(3) All child placing agencies shall have records of services to children for whom placement services are provided which shall include the following:

(a) Written authorization for care as specified in section 15(A)(1) of these Rules.

(b) Information about the child as specified in section 15(A)(2) of these Rules.

(c) Records of physical examination by duly licensed physician.

(d) Written record of the placement experience of the child as specified in section 15(B) of these Rules.

(e) If the child is not placed for adoption, information as specified in section 15(C) of these Rules.

(f) If the child is surrendered and released for adoption, there shall be a written record of the study of the child as specified in section 13(C) of these Rules.

(g) There shall be a written record of the preparation of the child for adoption as specified in section 13(D) of these Rules.

D. There shall be documentation of-compliance with the Interstate Compact Placement of Children 22 M.R.S.A. Section 4191 et *seq.* whenever an interstate placement is made.

17. CONFIDENTIALITY

A. Information about clients and services provided to them by the child placing agency shall be kept confidential and shall be disclosed only upon written authorization of the client except as otherwise specified by law.

B. Records may be made available to qualified researchers only when steps have been taken to preserve the anonymity of the clients.

C. Case records may be made available to recognized accreditation or licensing agencies.

D. Information about clients may be shared with the Department of Human Services and licensed child placing agencies.

18. DISSOLUTION OF AGENCIES

A. When a child placing agency makes the decision to cease operations, the agency shall provide for the following:

(1) Legal transfer of surrender and release of any child in its custody.

(2) Appropriate transfer of responsibility for children in placement.

(3) Appropriate transfer or termination of services to all other clients.

(4) Storage of records with another licensed child placing agency within the state or the Department and for appropriate access to such records with notice to the Department.

19. EFFECTIVE DATE

These rules governing the licensing of Child Placing Agencies With and Without Adoption Programs become effective July 3, 1989.

All licenses issued pursuant to prior rules shall remain in full force and effect for the term of the license unless action is taken by the Department to revoke, suspend or modify the license in accordance with these rules. The licensee will need to comply with these rules at the time of application for renewal.

20. SEVERANCE CLAUSE

The provisions of these rules and regulations are severable. If any provision the rules or regulations are invalids, or if the application of the rules and regulations to any person or circumstances is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

21. REPEAL OF PREVIOUS RULES

All previous rules governing the licensing of Child Placing Agencies With and Without Adoption Program in the State of Maine are hereby repealed.

22. REVIEW OF THESE RULES.

These rules governing the licensing of Child Placing Agencies With and Without Adoption Programs shall be reviewed within three years from the effective date as required in Part IV, Department of Health and Human Services, Regulations for Foster Care Maintenance Payments, Adoption Assistance, and Child Welfare Services (1356.21(g)(1) and (2).

STATUTORY AUTHORITY: 22 M.R.S.A. §8202.

EFFECTIVE DATE:

January 15, 1980

AMENDED:

November 6, 1980

April 13, 1984

November 10, 1986

July 3, 1989

ADDENDUM ADDED (EFFECTIVE DATE):

July 7, 2001

10-148

STATE OF MAINE

DEPARTMENT OF HUMAN SERVICES

COMMUNITY SERVICES CENTER

DIVISION OF LICENSING

ADDENDUM TO

CHAPTER 19:

RULES PROVIDING FOR THE LICENSING OF

CHILD PLACING AGENCIES WITH AND

WITHOUT ADOPTION PROGRAMS

CHILD PLACING AGENCIES WITH ADOPTION

HOME CERTIFICATION PROCESS

(For the Purpose of Legal Risk Adoption Only)

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SUMMARY: These rules describe the procedures and requirements for Child Placing Agencies providing adoption services to certify a pre-adoptive parent’s home as a certified home for a child placed in that home awaiting adoption by the pre-adoptive parent/s. All of the relevant rules outlined in the Rules Providing for the Licensing of Child Placing Agencies With and Without Adoption Programs must be followed in addition to the home certification process.

1. DEFINITIONS:

As used in these rules, the following definitions will apply:

A. AGENCY means a child placing agency that is licensed to provide adoption services by the Community Services Center, Division of Licensing under the authority of the Department of Human Services.

B. CERTIFICATION means written approval of the pre-adoptive parent/s’ home as a certified home by a child placing agency subsequent to review and assurance that all of the certification rules are met. The Child Placing Agency must be the agency that has conducted the home study, the home certification review process, and is placing a child into the home being considered for certification.

C. CERTIFIED HOME (HOME) means a child’s home that is a private dwelling where substitute pre-adoptive parental care is provided within a family on a regular, 24-hour-a-day, residential basis for the purpose of legal risk adoption.

D. FAMILY means a single individual or a couple who is approved for the placement of a child for adoption.

E. PRE-ADOPTIVE PARENT means a person who has entered into an agreement with a licensed private Child Placing Agency that has certified the person/s as a potential adoptive parent who will accept a child into care with the intent to adopt that child.

F. RESIDENT means a person residing in the home on a 24 hour basis as well as other persons that may reside at or visit the home for extended periods of one month or more.

2. CERTIFICATION PROCEDURES

A. Pre-adoptive parent/s who make application for home certification for children under 18 years of age and who have been determined to be in compliance with applicable certification requirements may receive a certificate from the Agency conducting the review. The certificate shall be issued when a:

(1) home study (including criminal and child abuse background checks) has been completed and approved, and

(2) the Agency has determined that the pre-adoptive parent/s are suitable candidates for legal risk adoption.

B. Application for certification shall be made directly to the Agency and shall include the following:

(1) releases to contact the State Bureau of Investigation and Child Protective Services,

(2) names of three (3) references,

(3) names of other resident/s of the home and releases to conduct background checks,

(4) satisfactory water test results for homes with private water supplies,

(5) other items identified by the Agency through the application process.

C. Following receipt of the application, the Agency will evaluate the adequacy of care planned, the adequacy of the physical plant (home and immediate grounds) and make a decision to grant or deny the certification based on the evaluation. A decision under this paragraph must be made by the Agency within 30 days of receipt of the information required for a decision on the application under paragraph B. For reason of the best interests of the child, a decision under this paragraph may be extended for an additional 30-day time period.

D. When the Agency has reasonable cause to believe that the applicant or a person residing in the household may have a physical or mental health problem which would have a detrimental impact on the care of children, the Agency may request that the applicant provide the Agency with a physician’s or psychologist’s report which includes a diagnosis of any physical or mental condition/s and the professional’s assessment of the impact of the condition on the functioning of the individual and the potential impact on a child placed in the home. No person shall be required to submit to a physical examination if he or she states in writing that it is contrary to his or her religious teachings and practice unless there is probable cause to suspect that he or she manifests the symptoms of communicable or contagious disease which may affect the quality of child care provided.

NOTE: Requesting information regarding certain communicable diseases is a violation of Federal Law and may not be pursued (ex. HIV status). Legal advice should be sought prior to mandating applicant/s to produce evidence of health status.

E. The applicant may withdraw the application at any time during the application period upon notification to the Agency.

(1) The applicant must notify the agency in writing of his/her intent to withdraw.

(2) Once withdrawn, a new application must be submitted in order for the person/s to be reconsidered for home certification.

F. The certificate issued is approval for only the number of child(ren) being placed in the home at the time of the review. The Agency shall consider such factors as living space, safety issues, health, status and age of the child(ren) being considered for placement, other residents of the home, and the ability of the pre-adoptive parent/s to adequately care for and supervise the child/ren in the household.

G. Pre-adoptive parents shall permit an employee of the Agency or the Division of Licensing to enter the home at any reasonable time to either evaluate compliance with the rules, privately talk with and observe the child(ren) placed in the home, and/or conduct investigations of alleged violations of rules under which the certificate is issued. Complaints shall be handled in the following manner:

(1) All reports of alleged abuse, neglect or exploitation must be made to Child Protective Intake according to law.

(2) All alleged licensing violations must be reported to Child Protective Intake within 24 hours of becoming aware of the allegation/suspicion.

(3) The Agency shall investigate the issue only to the degree necessary to assure that children are safe and await a decision from the Institutional Abuse Unit as to how to proceed.

(4) The Institutional Abuse Unit will determine whether an IAU Investigator will conduct an investigation or whether the investigation will be assigned to the appropriate Licensing Unit within the Division of Licensing.

(5) The Agency may remove a child from the home pending the outcome of an investigation if it is determined to be in the best interest of the child for his/her protection.

H. Certificates shall not be issued for more than one year. If, at the end of one year, the adoption has not been completed, the Agency must conduct an on-site re-evaluation of the home and re-certify the home only if the home is in compliance with all applicable rules. The annual evaluation shall specifically address the following:

(1) changes in the occupancy of the home,

(2) changes in the applicant/s’ emotional, mental and/or physical health,

(3) updated background checks as needed,

(4) motivation of the applicant/s to pursue legal risk adoption.

I. The pre-adoptive parents are responsible for notifying the Agency of any changes in the home which might affect the status of the certificate or the well-being of children in care which include but are not limited to intent to move to a new location, persons residing in the home that are not known to the Agency, potential safety hazards such as drinking water contamination, major repairs to the home that are costly and must be delayed, arrest of any occupant of the home for alleged criminal activity. The Agency is responsible for notifying the pre-adoptive parents of their responsibilities in writing and must maintain such evidence on site.

J. No certificate may be issued if fire hazards exist (identified as out of compliance on the physical plant checklist) that may place occupants in jeopardy.

(1) If fire safety concerns are identified, the applicant/s must:

(a) request a fire inspection by the local fire department or the State Fire Marshal’s Office,

(b) submit a written statement from the inspector to the Agency stating that the home is safe for occupancy.

(2) If the inspector finds deficiencies and approves the home based on a plan of correction, a “conditional” certificate shall be issued pending correction of items which are out of compliance.

(3) The applicant/s shall submit evidence of correction of all identified deficiencies. Failure to correct the deficiencies shall result in the revocation of the certificate and removal of the child(ren).

K. The certificate is valid only for the address noted on the certificate and is not transferable to another location. New physical plant (home) inspections must be conducted prior to the issuance of a certificate for the new address consistent with all applicable rules.

3. TYPES AND TERMS OF CERTIFICATES

A. A full certificate valid for one year shall be issued by the Agency to an applicant who:

(1) Has not previously been certified or has been certified but has not yet had a child placed in the home.

(2) Complies with all applicable rules and laws except those which can only be complied with once children are placed in the home.

(3) Is being re-certified to facilitate the adoption of a subsequent child while awaiting the finalization of a previous adoption.

(4) Is being re-certified due to the expiration of the existing certificate.

B. A conditional certificate may be issued by the Agency if:

(1) The pre-adoptive parent/s fail to comply with applicable laws and rules, and in the judgment of the Agency, the home will be able to come into compliance. The Agency shall specify in writing when and what corrections must be made during the term of the conditional certificate which shall be issued for no more than 6 (six) months depending on the seriousness of the deficiencies.

(2) The pre-adoptive parent/s have outstanding deficiencies identified by the fire inspector.

C. The finalization of the adoption may be delayed, at the discretion of the agency, pending correction of deficiencies.

4. FAILURE TO COMPLY WITH APPLICABLE LAWS AND RULES

A. When an applicant or certified home fails to comply with applicable laws and rules, the Agency may refuse to issue or refuse to renew a certificate. A written notice of the reasons for the refusal shall be in writing and mailed (return receipt requested) or hand delivered to the applicant.

B. If, during the term of a full or conditional certificate, the pre-adoptive parent/s fail to comply with laws or rules, and the Agency determines that the home is not appropriate for an adoptive placement, the Agency may revoke the certificate and remove the child(ren) from the home. The revocation notice must be in writing and outline the reasons for the revocation. The notice must be mailed (return receipt requested) or hand delivered to the pre-adoptive parent/s.

Acts deemed inappropriate are acts that:

(1) immediately endanger the health or safety of persons residing in the home;

(2) violate applicable laws or rules;

(3) are undertaken or allow any practice detrimental to the welfare of persons residing in the home; and/or

(4) acts including committing, permitting, aiding or abetting any illegal practices.

5. APPEAL PROCEDURE

A. Each Agency must develop a policy and procedure that addresses the means by which applicant/s or pre-adoptive parent/s may file an appeal of the Agency’s decision to take a negative licensing action. The procedure must include the following:

(1) the means by which applicant/s or pre-adoptive parent/s are notified of the procedure to appeal a decision,

(2) the means by which the agency will hear the appeal,

(3) the position responsible for receiving and maintaining all documentation related to the appeal,

(4) the step/s included in the appeal procedure including time frames within which it will be heard and the means by which a final decision will be reached,

(5) written notification of the results of the appeal hearing/s.

6. WAIVER OF RULE/S

The agency’s Executive Director or designee may, upon written request, waive or modify a provision of these rules if the rule is not mandated by Maine Statute and the integrity of the home certification process is not compromised. A policy and procedure for the review of waiver requests must be developed and include the following:

A. a requirement for waivers to be in writing and include reasons why the provision/s of rule cannot be met, why a waiver is being requested, a description of the alternative method proposed for meeting the intent of the provision of rule sought to be waived,

B. the means by which waivers will be evaluated and accepted or rejected,

C. a means to record all waiver requests and outcomes.

7. CERTIFICATION RULES

In addition to full compliance with the Rules Providing for the Licensing of Agencies With Adoption Programs, the Agency must ensure that the following certification rules are met:

A. SUPERVISION OF CHILDREN

Pre-adoptive parents or designated individuals responsible in their absence, must provide supervision and care appropriate to each child’s age, level of development, and ability to accept independence and responsibility. Designated individuals must also comply with the child management rules.

B. CHILD MANAGEMENT

(1) Pre-adoptive parents must be positive in their approach to discipline. Any discipline or control must be appropriate to the child’s age and developmental level. Disciplinary measures must be:

(a) Administered as soon after the problem behavior as possible.

(b) Reasonably related to the nature of the misbehavior and not excessive.

(c) Carried out by the pre-adoptive parent/s or the person responsible for the child if the pre-adoptive parent/s is absent.

(2) Separation, when used as discipline, shall be brief and appropriate to the child’s age, developmental level and within hearing distance of the pre-adoptive parents in a safe, lighted, well-ventilated, unlocked room (commonly known as time out).

(3) In no instance shall a child be subjected to:

(a) Verbal abuse, derogatory remarks regarding himself/herself or members of his/her family, threats to expel the child from the home, or other forms of psychological abuse.

(b) Physical punishment, kneeling, shaking, spanking, or striking with an object or a blow with the hand.

(c) Severe, cruel, humiliating, or unnecessary punishment.

C. SAFETY AND SANITATION

(1) Medications must be placed in a secure location out of reach of children. Medications must be administered as prescribed by the physician by the pre-adoptive parent/s or designee.

(2) The home must be kept clean and maintained in a condition insuring health and safety.

(3) All potentially harmful materials such as poisonous, toxic or flammable materials must be stored in locked storage areas or kept in a place inaccessible to children.

(4) Household materials, tools and equipment which may be dangerous to children shall be stored out of reach of the children.

(5) Firearms including BB guns and air guns shall be rendered inoperable, unloaded and locked up to prevent unauthorized use. Ammunition and projectiles such as arrows, or other items which can be used to make a weapon operable, shall be locked separately. Weapons shall not be transported in any vehicle in which children are riding unless the weapons are made inoperable and inaccessible.

(6) Heating devices such as radiators, wood stoves, fireplaces and hot water pipes within the reach of children shall be screened or otherwise protected as deemed necessary.

(7) Toilet and bath facilities must be provided, appropriate and adaptable to the needs of the child(ren) and accessible without passing through a designated sleeping area. They must be maintained in sanitary and good repair.

(8) Obstructions/Barriers shall not be applied to either the interior or exterior side of any exit including doors and at least one window in each room to allow for exit in case of emergency.

D. HOME REQUIREMENTS

(1) The home shall have adequate heat, light, and ventilation for safe and comfortable occupancy.

(2) The home shall have adequate family living space in addition to bedrooms for the comfort of family members and for meals and recreation.

(3) The home must have a telephone that is maintained in good working order and not dependent on electricity to use.

(4) Locks or fastening devices on internal doors and closets shall be operable from both sides in case of emergency.

(5) There shall be adequate space for dining/eating as well as food storage areas which shall be maintained in a sanitary condition.

(6) Bedrooms shall meet the following criteria:

(a) Each bedroom used by more than one child shall contain at least 40 square feet of floor space per child. A room used for 1 (one) child shall contain at least 60 square feet of floor space. All bedrooms must have an average ceiling height of at least 7 feet. There must be at least one outside window. This window must be operable or other means of ventilation must be provided. There must be a door which provides reasonable privacy for the child(ren). Separate beds and clean bedding must be provided for each child. Furniture must be comfortable and suited to the needs of the children.

(b) Closets, alcoves, and corridors or any other room which is normally used for other than sleeping purposes must not be used as a bedroom.

(c) No adult residing in the household shall share a bedroom with a child over one year of age (exceptions will be allowed when deemed to be in the best interest if a child in collaboration with the Agency). No child over 5 years of age may sleep in the same room with a child of the opposite sex. An adult must sleep in close enough proximity to be able to hear and respond to the child(ren)’s needs.

(d) All stairways shall be equipped with a railing.

(e) Pre-adoptive parents must provide accommodations for any handicapping condition/s of a child placed in the home such as, but not limited to, visual emergency communication systems for a hearing impaired child, direct access to exits for a physically handicapped child.

E. HEALTH REQUIREMENTS

(1) Pre-adoptive parent/s shall assure that children awaiting adoption receive preventive, ongoing and emergency medical, dental and psychological care in accordance with the directives of the parent/legal guardian, the Agency, and/or as circumstances dictate, and must have the means to transport a child for receipt of treatment.

(2) Written consents for treatment and medical records of all treatment received subsequent to placement (including prescribed medications, physicians orders, and immunization records) must be on file at the home.

(3) Medications must be stored in original containers with the child’s name, date, instructions for administration and the physician’s name.

F. FOOD AND CLOTHING REQUIREMENTS

The pre-adoptive parents shall provide food and clothing of sufficient quality and quantity to meet the nutritional, medical and psychological requirements of children in care.

G. RECREATION AND SOCIAL ACTIVITIES

(1) Pre-adoptive parent/s shall arrange for and encourage children in care to participate in appropriate social and recreational life in the home and community.

(2) Safe outdoor and indoor recreational materials shall be provided in sufficient variety and quantity to provide a choice of opportunities. All recreational materials shall be maintained in good repair.

8. CHILD PLACING AGENCY STAFF TRAINING REQUIREMENTS

In order for an Agency to certify pre-adoptive homes, each employee that will be performing the evaluations and each supervisor overseeing the process must be trained in and maintain a record of training in the following:

A. The meaning and interpretation of rules.

B. The roles and responsibilities of a regulatory authority including but not limited to the legal implications of issuing a certificate as well as boundary issues.

C. Home (physical plant) inspections including identification of safety hazards, standards of cleanliness, considerations of the potential needs of a child being placed in the home, evaluation of adequate space within rooms.

D. Ongoing oversight responsibilities including procedures for conducting investigations of alleged rule violations.

E. Use of standardized tools with which to conduct inspections.

F. Providing technical assistance to pre-adoptive parent/s in child management practices, compliance with rules and access to referral information to guide pre-adoptive parent/s to other sources of assistance.

G. Maintenance of records demonstrating compliance with rules.

9. REPEAL OF OR AMENDMENT TO EXISTING RULES

These rules are established as an addendum to the Rules Providing for the Licensing of Child Placing Agencies With and Without Adoption Programs

10. REVIEW OF THESE RULES

These rules governing the certification of pre-adoptive homes as certified homes for the purpose of legal risk adoption by a licensed Child Placing Agency shall be reviewed within three years from the effective date as required by law. They shall also be reviewed during the review of the Child Placing Agency rules within one year.

STATUTORY AUTHORITY: 22 M.R.S.A. 8201-22 M.R.S.A. §8206

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 16, 2025