# 10- DEPARTMENT OF HUMAN SERVICES

 148 BUREAU OF CHILD AND FAMILY SERVICES

Chapter 20 RULES PROVIDING FOR THE LICENSING OF CHILD PLACING AGENCIES WITH ONLY RESPITE CARE PROGRAMS

SUMMARY: This chapter outlines the licensing requirements of the department for child placing agencies limited to placing for respite care only, Including denial, revocation and suspension of licenses. These rules describe the administration of child placing agencies, personnel requirements, placement requirements, records, confidentiality and procedures for dissolution of the agency.

1. DEFINITIONS FOR PURPOSES OF THESE RULES ONLY:

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

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

C. "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.

D. "Agency" shall mean any person, partnership, voluntary association or corporation.

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

F. "Respite Care" shall mean substitute parental care provided within a family on a 24 hour a day basis not to exceed a period of 3 consecutive weeks for each individual child and shall mean the provision of those things necessary to assure safe, healthful living for the child unattended by parent or guardian 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.

G. "Advertise" shall mean the act of stating in writing that the agency is available and willing to provide an individual with services which will result in the placing or assisting in finding placements for children under eighteen years of age for respite care.

H. 'Holding out" shall mean a series of actions or oral statements by a agency which affirmatively communicates the agency's availability and willingness to place or assist in finding homes for children for respite cars.

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

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

K. "Relatives by adoption" shall mean adoptive mother, adoptive father, adoptive grandparents, adoptive sister, or brother or the brother or sister of the adoptive parent.

L. "Direct Service" shall mean activities which have as their primary focus the provision of cars, training, education or related activities to clients.

M. "Discharge plan" shall mean a plan for a child including expected length of stay and identification of who will remove the child at the end of respite care.

2. LICENSING PROCEDURES

A. Any child placing agency 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., Section 7701 et seq.

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 will 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 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 Part 9 through 17.

G. At the time of application, the Department will request criminal history records from the Department of Public Safety, State Police, 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 reference 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 references 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 supervise the child placing agency to assure continuing compliance with the rules.

L. Applications for renewal of a license shall be made 60 days prior to the date of expiration in order that necessary licensing procedures may be completed to assure the continuity of the license. The re-evaluation 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.

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 agency 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 compiled 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 falls to comply with applicable law and rules and, in the judgment of the Commissioner, the best interest of the public would be served by issuing a conditional license. The Department shall specify when and what 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 a longer period, as deemed appropriate by the Department, not to exceed 12 consecutive months.

B. The terms 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 falls 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 and a statement indicating the reasons for refusal shall be formulated 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 agency falls 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 thereof at the agency or agency.

C. Whenever, upon investigation, conditions or practices are found which, in the opinion of the Department, immediately endanger the health or safety of children served by the agency, 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 agency or conduct or practices detrimental to the welfare of persons served by or attending the agency.

 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. Hold a conditional license

D. Refuse to issue or renew a full license

E. Refuse to issue a provisional license

F. Refuse to grant a request for a waiver.

8. WAIVERS

 The Commissioner or his designee may upon written request of any individual or agency waive or modify a provision of these regulations as long as the provision is not mandated by State law. 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 licensees 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 provisions cannot be met and why 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 will be answered in writing and a record of them will be maintained. Such waiver or modification shall be granted 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.

9. ORGANIZATION AND ADMINISTRATION

A. Each child placing agency shall have a physical location within the State of Maine from which it operates, the address of which shall be filed with the Department.

B. Each child placing 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. Each child placing agency shall have on file a written statement of philosophy, purpose, policy for its operation and geographic area the agency will serve.

D. A child placing 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.

E. Members of the governing body, the Administrator or operator of the child placing agency and all staff arranging for and supervisory respite care 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.

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 policies and program. If the administrator is responsible for supervision of the program, the qualifications of a program supervisor must be met.

B. Each child placing agency shall have a program supervisor, who may also serve as administrator, who shall be responsible for supervising staff who arrange for and supervise respite care services. The program supervisor must have a Bachelor's Degree from an accredited school in social work, 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 human services related setting.

C. All staff arranging for and supervising respite care services to children and families, must have: (a) 15 college credit hours in areas of counseling, guidance, social welfare, psychology, sociology, human development and child development AND three (3) years of direct service in a human services related setting, or (b) a Bachelor's degree from an accredited school in counseling, guidance, social welfare, psychology, sociology, human development and child development, or a related field and one (1) year of direct service experience in a human services related setting, or (c) an Associate Degree from an accredited school in counseling, guidance, social welfare, psychology, sociology, human development and child development and two (2) years of direct service experience in a human services related setting.

D. There shall be sufficient staff to adequately arrange for and supervise respite services to the child and the families for whom the agency has responsibility.

E. The Department shall determine and the governing body shall demonstrate to the satisfaction of the Department that all staff have the following qualities to carry out his or her 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 range and benefits.

4. Job descriptions.

G. Volunteers 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.

H. 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 10(E) of the rules.

11. PROGRAM OF CARE

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

1. No child shall be placed for respite care without the written authorization of the parent, other person, official or agency having legal authority to give that authorization.

2. No child shall be placed for respite 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 care,

b. Date and place of birth.

c. Sex of child.

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

e. Legal status of the child, including custody orders.

f. Any religious practices that would affect the placement.

g. Medical history and current medical needs pertinent to the placement.

h. The particular needs of the child which must be attended to during the time of respite.

i. Skills and abilities of the child including description of behavior and routines and other information relative to the needs of the child.

j. Statement of financial arrangement at the time of acceptance.

k. Who will be allowed to visit and who will not.

3. The agency shall ensure that a child with a communicable disease shall not be placed with other children.

B. The following regulations shall govern the responsibility of the child placing agency to the child in care.

1. No child shall be placed in an unlicensed children's home for respite care.

2. No child shall be placed under the care of an unlicensed child placing agency or unlicensed child care facility.

3. The child placing agency which accepts responsibility for a child must assure that his or her needs relative to respite care are met.

4. 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 and shall assure that the respite care provider is supplied with information regarding who may or may not visit the child.

C. The following regulations shall govern the discharge from respite care of any child by the child placing agency.

1. A discharge plan shall be developed each time a child enters respite cars.

2. A copy of the discharge plan will be given to the respite care provider at the time of placement.

3. Discharge of a child from respite care shall be made only in accordance with the discharge plan specified in writing by the person(s) or agency having legal custody of the child or on the written authorization of one of these, or in an emergency in accordance with a plan developed by the child placing agency.

4. The name and address of the person, persons or agency to whom the child was discharged and date of discharge will be recorded in the child's record.

12. 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. Operating budgets for the period covered by the license.

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

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

C. Service Records

1. 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 respite care as specified in 11(A)(1) of these Rules.

b. Information about the child as specified in 11(A)(2) of these Rules.

c. Written record of the placement experience of the child as specified in 11(B) of these Rules.

d. Information as specified in 11(C) of these Rules.

13. CONFIDENTIALITY

A. Information about clients and services provided to them by the child placing agency shall be kept confidential and shall be shared with third parties 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 unless written permission has been obtained.

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

14. DISSOLUTION OF AGENCIES

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

1. Appropriate transfer of responsibility for children in respite care.

2. Make provision for 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.

15. EFFECTIVE DATE

These rules governing the licensing of Child Placing Agencies with only Respite Care Programs become effective December 22, 1986.

The Department may grant Child Placing Agencies a period of time in which to bring its staff, hired prior to the effective date of these rules, into compliance with 10(B) and 10(C) of these Rules. Such a period of time may not extend beyond December 22, 1989.

16. SEVERANCE CLAUSE

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

17. REVIEW OF THESE RULES.

 These rules governing the licensing of Child Placing Agencies only with respite care 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).

Authority: Title 22 M.R.S.A. Section 8202.

EFFECTIVE DATE: December 22, 1986

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