



## *Child and Family Services*

*An Office of the  
Department of Health and Human Services*

*John E. Baldacci, Governor*

*Brenda M. Harvey, Commissioner*

### **STATE OF MAINE**

### **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

#### **CHAPTER 16**

#### **RULES PROVIDING FOR THE LICENSING OF FAMILY FOSTER HOMES FOR CHILDREN**

**and**

#### **CHAPTER 15**

#### **RULES PROVIDING FOR THE LICENSING OF SPECIALIZED CHILDREN'S FOSTER HOMES**

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**Chapter 16 - Family Foster Homes for Children, with**

**Chapter 15 - Specialized Children's Foster Homes**

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
Office of Child and Family Services

**CHAPTER 16**

**LICENSING OF FAMILY FOSTER HOMES FOR CHILDREN**

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**SUMMARY:** These rules describe the procedures and requirements for licensing of Family Foster Homes for Children under 18 years of age. These rules are designed to protect the health, safety, well being and development of children. These rules also apply to foster families applying for or holding a license for a Specialized Children's Foster Home with the exception of those differences stated in the Addendum section of this document.

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**1. DEFINITIONS**

As used in these rules the following definitions shall apply:

- A. "Family Foster Home for Children" means a children's home that is a private dwelling, where substitute parental care is provided within a family on a regular, 24-hour a day, residential basis to children under 18 years of age. The total number of children in care may not exceed 6, including the family's legal children under 16 years of age, with no more than 2 of these children under the age of 2. In order to keep siblings together, this definition shall not prohibit the placement of more than the allowed number. The placement of a sibling group, which would exceed the six children permitted by law, is applicable when either a sibling is already placed in the home or at least one licensed slot is vacant and adequate space is available in the foster home. Indian tribes have the authority to license or approve foster families located on the reservation according to their own rules and regulations.

- B. "Blood relatives" shall mean mother, father, child, brother, sister, grandparents, uncles, aunts, nieces, nephews, first cousins, and any of the foregoing relatives by adoption.

The definition for an Indian child's "extended family member" shall be in accordance with the Indian Child Welfare Act. The Act states that an extended family member shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin or stepparent.

- C. "Relatives by marriage" shall mean step-child, step-brother, step-mother, step-father, step-sister, and step-grandparents.
- D. "Department" shall mean the Department of Health and Human Services.
- E. "Foster child" shall mean a child under 18 years of age, who requires out of home care on a regular 24-hour a day, residential basis.

- F. "Indian child" shall mean an unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
- G. "Foster parent" shall mean a person maintaining a family foster home for children.
- H. "Scheduled Drug" shall mean any scheduled drug, W, X, Y and Z pursuant to Title 17-A M.R.S.A. §1102.
- I. "Practices detrimental to the welfare of children" shall include but not be limited to:
  - (1) Sexual acts or sexual contact with a child, sexually suggestive touching, verbal harassment or insinuations or exposure of a child to viewing such acts or practices.
  - (2) Acts or threats of violence within the family and/or community. Such acts or threats include verbal/physical abuse of another person.
  - (3) Using, trafficking in, or furnishing unauthorized scheduled drugs.
  - (4) Furnishing or allowing the use of alcohol or tobacco products to any children in their care.
  - (5) Patterns of intoxication within the foster home, the effects of which are experienced by a child.

## **2. LICENSING PROCEDURES**

- A. Any person who makes application for a license to operate a family foster home for children under 18 years of age, including family foster care for Indian children, and who has been determined to be in compliance with applicable licensing requirements may receive a license from the Department. There is no charge for this license.
- B. An applicant for a license to operate a family foster home for children under 18 years of age must reside in Maine and intend to reside in Maine for the period required for completion of the licensing/approval process.
- C. Application for a license shall be made to the Department on a form provided by the Department. Any misrepresentation, falsification or omission on the application or during the application process may be a basis for denial.
- D. Following the receipt of a complete application the Department will evaluate the adequacy of care planned or provided for foster children and the adequacy of the physical plant in accordance with the applicable laws and regulations adopted by the Department and a decision will be made by the Department to grant or deny a license.
- E. At the time of application the applicant will sign a consent allowing a licensed medical personnel approved by the Department to provide a medical statement on a form provided by the Department. No person shall be required to submit to an 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 or illness that may affect the quality of child care provided.

- F. When the Department has reasonable cause to believe that the applicant, licensee, or person(s) residing in the foster parent(s) household may have a physical, mental health or substance abuse problem which would have a detrimental impact on the care of children, the Department may request the applicant or licensee to provide the Department with a report from an approved physician, a licensed mental health clinician, or a Licensed Substance Abuse Counselor of an assessment of the impact or the effect of the condition(s)/issue(s) and the treatment and level of functioning of the individual. No person shall be required to submit to an examination/evaluation if he or she states in writing that it is contrary to his or her religious teachings and practice.
- G. At the time of initial application, completed references including complete contact information, shall be required from three persons who are acquainted with but not related to the applicant(s). Exceptions may be requested to use a relative as a reference but must receive prior approval from the Licensing Unit Supervisor of the Department.
- H. At the time of initial application, the applicant(s) shall undergo fingerprinting in order to allow the Department to submit required fingerprint-based checks of national crime information databases.
- I. At the time of initial or renewal application, the applicant shall submit releases signed by each adult member of the household and at the discretion of the Department shall submit releases signed by any person who frequents the home who may have unsupervised access to the foster children permitting the Department to request criminal history records from the Department(s) of Public Safety, State Police, Bureau of Identification; or other law enforcement agencies from any past or present residence including out of state law enforcement agencies.
- J. The applicant(s) may withdraw their application at any time during the application period upon notification to the Department.
- K. The maximum number of children to be placed in a family foster home shall be stated on the license. The license may be reissued for a larger or smaller number of children. In determining the maximum number, the Department shall consider such factors as: living space, safety issues, health, status and age of the children and the ability of the foster parents to adequately care for and supervise the children in the household. Foster parents shall not exceed the number of children for whom they are licensed with the following exception: in order to keep siblings together the foster parents may receive written approval from the Foster Care Licensing Worker or Foster Care Licensing Supervisor. In order to receive this exception there must be either a sibling already placed in the home or at least one licensed slot is vacant and adequate space is available in the foster home.
- L. Foster parents shall permit Department staff or guardian ad litem to enter their foster home at any reasonable time to (a) license or evaluate compliance with the rules and/or (b) privately talk with and observe the foster child(ren) in the home.

- M. Licenses are in effect at the address on the license. If the licensee moves to a new location, a new application must be submitted. The existing license will become void 30 days after the move, unless the Department licensing staff completes an evaluation of the new foster home to ensure compliance with licensing rules. The license is valid only at the primary residence of the foster parent.
- N. 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. A re-evaluation of the family foster home will be conducted by Department licensing staff to ensure compliance with licensing rules.
- O. The licensee shall report any changes in the foster home to the licensing worker or licensing supervisor within five days.
- P. No license to operate a foster family home at any location can be issued until such home passes a satisfactory inspection for fire safety and fire protection. However, a temporary license may be issued pursuant to 3 (C) of these Rules.
- (1) Fire inspections shall be undertaken in a time frame in accordance with Title 22 M.R.S.A. §8103.
  - (2) All inspections shall be made under the provisions of Title 25, M.R.S.A. §§ 2360, 2391, 2392 and 2452. Such inspections are made by the State Fire Marshal's Office in the Department of Public Safety at the request of the Department.
  - (3) In the case of an unsatisfactory fire inspection, the applicant shall submit a plan of correction to the State Fire Marshal's Office within 10 days of receipt of the notice of deficiencies.
- Q. As part of the application or renewal process water used for drinking and cooking must be obtained from a satisfactory supply. Water must meet the standards of the Division of Health Engineering, Department of Health and Human Services. Water must be tested prior to licensure or renewal if it is not from a municipal water system.
- R. At the Department's discretion the applicant or licensee shall provide releases of information relevant to ensure compliance with licensing rules.
- S. In some instances, there are no common definitions as to degree of compliance with rules. When such instances occur, the determination of compliance or non-compliance with rules shall be made at the discretion of the Department.

### **3. TYPES OF LICENSES**

The Department shall issue the following types of licenses:

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

- B. A conditional license may be issued by the Department when the individual or agency fails to comply with applicable laws and rules and, in the judgment of the Commissioner, the best interest of the public would be so served by issuing a conditional license. The Department shall specify in writing when and what corrections must be made during the term of the conditional license.
- C. A temporary license may be issued when a preliminary evaluation of the home has determined that the applicants are capable of providing foster care, in accordance with applicable laws and rules relating to minimum standards of health, safety and well-being, except that it is not possible to obtain a fire safety inspection in accordance with 22 M.R.S.A. §8103 prior to temporary licensure and there are no obvious fire safety violations and, in the judgment of the Commissioner, the best interest of the public will be so served by issuing a temporary license. When a foster family affiliated with a Child Placing Agency moves a new application must be submitted. The existing license will become void 30 days after the move unless the licensing staff completes an evaluation of the new foster home to ensure compliance with licensing rules. This allows the continuation of services to the child(ren) currently placed with the family.

#### **4. TERM OF LICENSE**

- A. The terms of full licenses shall be for two years.
- B. If the Department determines that a violation of laws and/or rules exists, a conditional license may be issued for a specific 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.
- C. A temporary license shall be for a specific period not to exceed 120 days.
- D. The Department shall visit the applicant's residence in order to determine compliance with applicable laws and rules before a temporary license or an initial full license is issued. During the period of a full or conditional license, the Department shall visit the foster home at least once to monitor for continued compliance with applicable laws and rules.

#### **5. FAILURE TO COMPLY WITH APPLICABLE LAWS AND RULES**

- A. When an applicant fails to comply with applicable laws and rules, the Department may deny the issuance or renewal of the license. A written notice of denial indicating the reasons for denial shall be mailed to the applicant.
- B. If, at the expiration of a full license or during the term of a full license the home fails to comply with applicable law 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. The Department may void the conditional license or refuse to issue a full license if the terms of the conditional license are not met. The conditional license shall be void when the Department has delivered in hand or by certified mail a written notice to the licensee. In the case that the licensee cannot be reached for service in hand or by certified mail written notice thereof shall be left 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, the Department may request the District Court for an emergency suspension pursuant to Title 4 M.R.S.A. §184 sub-§6.
- D. A license to operate a Family Foster Home for Children may be suspended or revoked for: (1) violating any applicable law or rule; (2) committing, permitting, aiding or abetting any illegal practices in the operation of the facility; or (3) undertaking or allowing any practice detrimental to the welfare of persons living in the foster home.

When the Department believes that a license should be suspended or revoked, it shall file a complaint with the District Court as provided in the Maine Administrative Procedure 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. Expiration of a temporary 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. These decisions are as follows:

- 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 temporary license; or
- 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 if the regulation is not mandated by Maine Statute. The individual or agency shall provide documentation, including at the request of the Commissioner or his designee, an 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. Waivers may be issued only for the duration of the current license and may be considered upon subsequent applications. Application for a waiver or modification shall be made in writing and must include:

- A. A statement of the provision for which waiver or modification is requested;
- B. An explanation of the reasons why the provisions cannot be met and why a waiver or modification is being requested; and
- C. 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. Prior to the expiration of the license if the waiver or modification continues to be necessary, a new application for waiver or modification must be made. Granting of a waiver is case-specific.

## **9. LICENSING REQUIREMENTS FOR FAMILY FOSTER HOMES FOR CHILDREN**

### **A. QUALIFICATIONS OF THE FOSTER PARENTS**

- (1) Foster parents must be at least 21 years of age.
- (2) The members of the foster family having responsibility for caring for the foster children shall be emotionally stable, mature and law abiding individuals, able to exercise good judgment in meeting the needs of a child and shall not engage in practices detrimental to the welfare of children.
- (3) Members of the household responsible for foster children will have successfully resolved any serious conflicts/experiences in their past, including but not limited to, substance abuse, family violence, sexual abuse, relationship difficulties and other personal issues which could negatively impact a child. Members of the household or persons frequenting the foster home or the foster home property shall not engage in practices detrimental to the welfare of children.
- (4) The relationships within the foster family should be generally positive and adequately meet the social, emotional, and developmental needs of each family

member through a combination of family and community relationships and activities and acceptance of diversity.

- (5) Members of the household responsible for foster children will have the capacity to understand and meet the developmental and individual needs of children and the flexibility to treat a child in a manner consistent with those needs, as determined by the Department.
- (6) The applicant or licensee shall bring to the attention of the Department licensing worker within 3 business days the following information regarding themselves or persons residing in or frequenting the foster home or the foster home property:
  - a. Arrests, indictments, and/or convictions for sexual or violent crimes involving adults or activities which could have resulted in convictions for such crimes if prosecuted;
  - b. Arrests, indictments, and/or convictions involving children or activities which could have resulted in convictions for such crimes if prosecuted;
  - c. Arrests, indictments, and/or convictions for operating under the influence or for any other activity which involves substance abuse;
  - d. Admission to a mental health or substance abuse treatment facility and involvement in mental health or substance abuse counseling;
  - e. Any serious physical problems that have required admission to a hospital or other in-patient facility;
  - f. Whether or not Child Protective Services or the Out-of-Home Abuse and Neglect Investigations Unit has ever investigated the family situation for allegations of child abuse or neglect either when the person was a child or since he or she has become an adult;
  - g. Any suspensions, revocations, conditions, fines or denials of or against any license or certificate that is or has been held by the applicant.
  - h. Whether or not there was any investigation while licensed, registered, certified, or approved to provide child/adult care;
  - i. The removal of children from their care or custody;
  - j. Any denial of approval to adopt;
  - k. Any other information regarding their circumstances or treatment of children which is relevant to the Department's decision to issue a license.

If such information as described above exists, the family foster home applicant or licensee shall furnish the Department with written releases permitting the Department to obtain any other information regarding the above from appropriate officials or persons to determine whether there is a threat to the health, safety and welfare of children.

In deciding what action to take regarding a license under the foregoing circumstances, the Department shall determine if sufficient evidence has been presented by the applicant or licensee to indicate that the problems which resulted in any of the above have been adequately resolved so that the applicant or licensee is in compliance with 9 (A) (3) of these rules and with any other applicable rules.

- (7) The Department shall not grant a license to person(s) convicted of a felony involving: child abuse or neglect, spousal abuse, a crime against a child or children (including child pornography) or a crime involving violence, including rape, sexual assault or homicide.
- (8) The Department shall not grant a license to a person(s) convicted within the last five years of a felony involving: physical assault, battery or a drug related offense.
- (9) An application may be denied if the applicant(s) have an open Child Protective Services Case or a closed substantiated and/or indicated Child Protective Services case. An open Child Protective Services Case includes a pending disposition of an open report, a case open for assessment or a case open for services.
- (10) The foster family shall support the foster child maintaining connections with his/her family members, including the child's parent(s), grandparents and siblings, and shall cooperate with visitation arrangements in accordance with the case plan developed by the Department and/or placing agency. Foster families with Indian child(ren) must be able to accept visitation arrangements with the child's parent(s), grandparents and siblings. At no time shall a foster parent use restriction of visitation privileges as a form of discipline or punishment.
- (11) Foster parents shall cooperate with and participate in any plan developed by the Department or other placing agent for the foster child.
- (12) Foster parents shall participate in any counseling and treatment necessary to meet the needs of the child and participate in consultation with therapists, physicians, social workers and educators as necessary to meet the needs of the child in accordance with the case plan developed by the Department and/or placing agency.
- (13) The foster family shall not care for adult boarders or roomers, or operate under any other license to provide child care. Exceptions to this rule would include, but not be limited to, allowing the foster family's former foster child to continue residing in the home as an adult or allowing the former foster child to return at a later date to live in the home.

Exceptions to this rule must receive prior approval from the Foster Care Licensing Supervisor.

- (14) Whenever the foster parents are absent from the home, they shall designate responsible individuals to supervise.

- (15) Foster parents shall treat all children in the home in a fair and equitable manner.
- (16) The foster family shall have an ongoing, predictable income to assure that the home is maintained in conformity with the requirements of these regulations.
- (17) Foster parents shall keep information about a foster child's previous history and family members confidential and provide such information only to therapists, physicians, social workers and educators or others as directed by the Department and/or placing agency to meet their responsibilities to the foster child.
- (18) Applicants shall have completed an introductory training program for foster parents or its equivalent offered or approved by the Department of Health and Human Services prior to being licensed. Exceptions to the completion of an introductory training may be made when the foster parent(s) are applying for a license with the intent to care for a specific child and have an already established relationship with the child and where no other foster children will be living. Exceptions to this rule must receive prior approval from the Foster Care Licensing Supervisor.
- (19) Foster parents shall participate in ongoing training of at least 18 hours for the licensee(s)' combined hours of training, with at least 6 of those hours completed by the secondary foster parent, if applicable, within the two-year licensing period. The training must be related to the needs of the children in foster care and approved by the licensing agency. At the time of initial and renewal licensure, the Foster Care Licensing Worker will provide the licensee(s) with a list of required training and of approved training options. Documentation of required training must be provided to the Foster Care Licensing Worker at the time of license renewal.

**B. NUMBER AND AGES OF CHILDREN IN CARE**

The total number of children in care may not exceed 6, including the family's legal children under 16 years of age, with no more than 2 of these children under the age of 2. The only exception which may be made to the number and ages of children is to allow siblings to be kept together. The exception is applicable only when adequate space is available in the foster home. In order to keep siblings together there must either be a sibling already placed in the home or a vacant slot available. Requests for exceptions to this limit must be approved by the Foster Care Licensing Supervisor.

**C. SUPERVISION OF FOSTER CHILDREN**

Foster parents or designated individuals responsible in their absence must provide supervision and care meeting the needs of each foster child's age, level of development, independence and responsibility. Designated individuals must also comply with the child management rules.

**D. CHILD MANAGEMENT**

- (1) Foster parents must be positive in their approach to discipline.

- a. Any discipline or control must be appropriate to the child's age and developmental level.
  - b. Child misbehavior shall be viewed as an opportunity for a child to learn acceptable behavior rather than for the purpose of experiencing guilt and/or shame.
- (2) In no instance shall a child be subjected to:
- a. Verbal abuse, derogatory remarks regarding himself/herself or members of their family, threats to expel the child from the foster 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;
  - d. Physical restraint except when necessary to protect the child from inflicting injury to themselves or others. Holding shall be the only means of restraint to assist a child who is physically out of control and shall be used to provide the child with an opportunity to regain his/her control; or
  - e. Administration of any medications, including psychotropic medications, as a means of punishment or control.
- (3) In no instance shall a foster child be subjected to:
- a. Deprivation of mail or family contacts except as approved by the Department for safety reasons;
  - b. Deprivation of meals; or
  - c. Punishment for actions over which a foster child has no control.
- (4) Separation when used as discipline shall be brief and appropriate to the child's age, developmental level and the child should be within hearing distance of the foster parents in a safe, lighted, well ventilated, unlocked room.
- (5) Discipline 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; and
  - c. Carried out by foster parent(s) or the person responsible for the child if the foster parent is absent.

**E. SAFETY AND SANITATION**

- (1) No license to operate a foster home at any location can be issued until such home passes a satisfactory inspection for fire safety and fire protection. However, a temporary license may be issued pursuant to 3 (C) of these Rules. The fire safety inspection shall be done in compliance with Rule 2(P) of these Rules.
- (2) Water used for drinking and cooking purposes must meet the standards of the Division of Health Engineering, Department of Health and Human Services, in compliance with Rule 2(Q) of these Rules.
- (3) When it is necessary for the safety of children the foster parent(s) must store medication in a place inaccessible to children. The foster parent(s) shall dispense medication as prescribed.
- (4) The premises must be kept in a state of cleanliness and maintained in a condition insuring health and safety. All corridors, exits, passageways, stairways and fire escapes must be kept clear for safe egress.
- (5) When it is necessary for the safety of children 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.
- (6) Household materials, tools and equipment which may be dangerous to children shall be stored out of reach.
- (7) Firearms including BB guns and air guns shall be 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.
- (8) 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 for children being cared for in the home.
- (9) Foster homes shall have indoor plumbing appropriate and adaptable to the needs of the foster children and accessible without passing through a designated sleeping area. The toilet and bath facilities must be in good repair, in sanitary condition, have doors and provide reasonable privacy.
- (10) At least one window and all doors in each room shall be free of any plastic coverings.
- (11) Animals that pose a safety or health risk to children may not be maintained on the premise.
- (12) Foster parents who transport foster children in their own vehicles shall comply with all State of Maine laws governing motor vehicle operation, including current driver license, vehicle registration, inspection, insurance, and use of age-appropriate passenger restraint systems.

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**F. SHELTER REQUIREMENTS**

- (1) The foster home shall have adequate heat, light, and ventilation for safe and comfortable occupancy.
- (2) The foster home shall have adequate family living space in addition to bedrooms for the comfort of family members for meals and recreation.
- (3) The foster home must have a telephone and answering machine or answering service.
- (4) No lock or fastening to prevent free escape from the inside of any room used by children shall be permitted.
- (5) Locks on the doors of all closets, bedrooms, and bathrooms shall be operable from both sides in an emergency.
- (6) The dining area(s) shall have adequate space for eating. There shall be adequate and sanitary facilities and space for food storage.
- (7) Bedrooms shall meet the following criteria:
  - a. Each bedroom used by foster children shall contain at least 40 square feet of floor space per person except that a room for 1 child shall contain at least 60 square feet of floor space. All bedrooms must have an average ceiling height of at least 7 ft. There must be at least one outside window. This window must be operable or other means of ventilation shall be provided.
  - b. Closets, alcoves, and corridors or any other room which is normally used for other than sleeping purposes must not be used as bedrooms.
  - c. All bedrooms must have doors and provide reasonable privacy.
  - d. A bedroom which is accessed by passing through another bedroom may be considered for use only if the occupants are of the same sex and both rooms are occupied by all children or all adults. One of the bedrooms must have a door which opens into a stairway, hallway or other living space, and must meet all other licensing requirements.
- (8) No adult residing in the household shall share a bedroom with a child over one year of age. Exceptions to this rule must receive prior approval from the Foster Care Licensing Supervisor.
- (9) No child over 5 years of age may sleep in the same room with a child of the opposite sex.
- (10) Each foster child must have a separate bed with adequate, clean bedding.

- (11) Individual space must be provided for storing a foster child's clothing and other personal possessions.
- (12) Foster parent(s) must sleep in the house near enough to care for and ensure for the safety of a foster child.
- (13) Sleeping areas for foster children who have physical handicaps which limit mobility shall be on floors with a direct fire exit to the outside.
- (14) Foster parents, caring for a child with a hearing impairment, shall provide an emergency communication system to warn such children of smoke or fire danger.
- (15) All stairways shall be equipped with a railing.
- (16) The foster home shall have adequate furniture in good repair, for all living areas.

#### **G. HEALTH REQUIREMENTS**

- (1) Foster parents shall assure that foster children receive preventive and ongoing medical, dental and psychological care in accordance with the directives from the physician, Department and/or the child placing agency or the person legally responsible for the child.
- (2) The foster parents shall request a medical history at the time of placement for each foster child, including details of any chronic illness or any condition requiring ongoing treatment.
- (3) Foster parents shall have on file a medical consent form for each privately boarded foster child, signed and dated by the private placement agency, or the child's parent or guardian.
- (4) Foster parents shall maintain a health record for each foster child. This shall include the foster child's medical history, examinations, medical and dental treatments, prescribed drugs and immunization records. This record shall accompany the child if he or she moves from the home.
- (5) No prescription medication shall be administered to a foster child without orders from a licensed physician. Medication for foster children shall be dispensed in accordance with the physician's instructions. Foster parent(s) administering psychotropic medication must have received instructions regarding the administering and the possible side effects in writing from either the prescribing physician or the pharmacist. Prescription medication must be kept in the original container labeled with the child's name, date, instructions, and physician's name.
- (6) Provision for emergency transportation to a medical facility must be available.

#### **H. FOOD REQUIREMENTS**

- (1) The foster family shall provide food of sufficient quality and quantity to meet the nutritional, medical, and psychological requirements of foster children. The diet



shall be planned, well balanced and shall include special diets and formulas as required by a physician.

- (2) Food provided for foster children shall not be different than what is provided for other members of the foster family unless medically required or unless:
  - a. A child wishes a vegetarian diet,
  - b. A child wishes a non-vegetarian diet,
  - c. The foster parent(s) is/are on an alternative diet, or
  - d. A child requests a different diet due to their religion.

#### **I. CLOTHING REQUIREMENTS**

- (1) Each foster child shall have individually selected and properly fitting clothing and footwear. Clothing and footwear must be kept in good condition and of such quality and appearance as not to distinguish the child from other children in the foster home and the community.
- (2) Foster parents shall be responsible for insuring that foster children's personal belongings including money and clothing go with them when they leave the home.
- (3) Foster children shall be provided individual personal hygiene items and be taught personal hygiene.

#### **J. RECREATION AND SOCIAL ACTIVITIES**

- (1) Foster parents shall provide opportunities for foster children to participate in social and recreational activities.
- (2) Safe outdoor and indoor recreational materials and opportunities shall be provided in sufficient variety and quantity to provide a choice of activities depending on the abilities and ages of foster children.
- (3) Foster parents or a designated person shall provide adequate physical barriers and supervision appropriate to each foster child's age and level of development.
- (4) Use of snowmobiles, ATV's and other motorized equipment by foster children must be approved by the Department caseworker. Appropriate safety equipment must be worn at all times.

#### **K. EXPOSURE TO SECOND HAND TOBACCO SMOKE**

Foster parents shall protect foster children from exposure to second hand tobacco smoke:

- (1) Smoking is prohibited in a foster home when a foster child is in placement.

- (2) When a foster child is absent from the foster home, smoking is prohibited within 12 hours prior to their expected return.
- (3) Smoking is prohibited in a foster home when a foster child is placed in a foster home providing respite care and within 12 hours prior to a child's expected respite placement.
- (4) Smoking is prohibited in a foster parents' motor vehicle within 12 hours prior to transporting a foster child and whenever the foster child is present in the vehicle.

“Smoking” includes carrying or having in one's possession a lighted cigarette, cigar, pipe or other object giving off tobacco smoke.

#### **10. REPEAL OF PREVIOUS RULES**

- A. These rules governing the licensing of Foster Family Homes for Children supersede all previous rules regarding Family Foster Homes for Children and become effective July 12, 2010.
- B. These rules shall apply to all applications received after the effective date.
- C. The license for any family foster home for children issued prior to the effective date of these rules shall remain in effect until the expiration date of that license. Compliance with these rules shall be required at the time of renewal of these licenses unless otherwise specified in these rules.

#### **11. REVIEW OF THESE RULES**

These rules governing the licensing of Family Foster Homes for Children shall be reviewed periodically as required by 42 U.S.C. Section 671(a)(11).

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STATUTORY AUTHORITY: 22 M.R.S.A. §8102.

EFFECTIVE DATE:

January 20, 1980 - filing 80-23

AMENDED:

February 7, 1982 - filing 82-22

May 1, 1984 - filing 84-123

August 11, 1986 - filing 86-284

July 24, 1989 - filing 89-281

February 1, 1991 - filing 90-526

April 20, 1998 - filing 98-176

NON-SUBSTANTIVE CORRECTION:

May 13, 1998 - corrected effective date to June 1, 1998

AMENDED:

August 1, 2002 - filing 2002-185

NON-SUBSTANTIVE CORRECTIONS:

March 14, 2003 - addition of TTY telephone number on cover page

AMENDED:

June 29, 2004 - filing 2004-211, received by the Secretary of State on June 10, 2004, was  
WITHDRAWN on the authority of Assistant Attorney General Janine  
Massey before it could take effect, because of a technical error

October 9, 2004 - filing 2004-391, Section 9(K) added - major substantive

December 3, 2007 - filing 2007-502 and 503

July 12, 2010 - filing 2010-187

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**ADDENDUM****CHAPTER 15****THE LICENSING OF SPECIALIZED CHILDREN'S FOSTER HOMES**

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**SUMMARY:** These rules describe the procedures and standards for licensing of Specialized Homes for Children under 18 years of age. These rules are designed to protect the health, safety, well being and development of moderately to severely handicapped children having mental, physical and emotional problems to the extent that the child needs specialized care, supervision, training and/or therapy. This section outlines the additional requirements and differences necessary to be issued a license for a Specialized Children's Foster Home.

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**1. Definitions**

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

- A. "Specialized children's foster home" shall mean a children's licensed home that is a private dwelling where substitute parental care is provided within a family on a regular, 24 hour a day residential basis to children under 18 years of age. "Specialized care" is provided to no more than 2 moderately to severely handicapped children by a caretaker who is specifically educated and trained to provide for the particular needs of each child placed. The total number of children in a specialized children's home may not exceed 4, including the caretaker's legal children under 16 years of age, with no more than 2 children under the age of 2. In order to keep siblings together, this definition shall not prohibit the placement of more than the allowed number. This placement of a sibling group which would exceed four children permitted by law, is applicable when either a sibling is already placed in the home or at least one licensed slot is vacant and adequate space is available in the foster home. Indian tribes have the authority to license or approve Indian foster families located on the reservation according to their own rules and regulations.
- B. "Foster parent" shall mean a person maintaining a specialized children's foster home for moderately to severely handicapped children.
- C. "Moderately to Severely Handicapped Child" shall mean a child with a physical, emotional, mental or behavioral condition that requires:
  - (1) diagnosis of the foster child by a qualified professional as having a physical, emotional, mental or behavioral condition which is moderately or severely different from the norms for his or her age group and developmental stage;
  - (2) participation by the foster parents in a treatment plan for the child;
  - (3) significantly more monitoring or supervision of the foster child than would be required for a child at his or her age group and normal level of development;

- (4) that the child be given assistance in self care and behavioral management needs which would normally be met by the foster child at his or her age group and normal level of development;
  - (5) that the foster parents have specialized knowledge and training; and
  - (6) involvement by a physician, mental health professional or in a special education program.
- D. “Paid Staff” shall mean any person other than the foster parent(s) who has responsibility for the care of the foster child(ren) for twenty-four hours or more who is an employee of the child placing agency having responsibility for the foster child(ren) in the foster home.
- E. “Respite Personnel” shall mean any person other than the foster parent who has responsibility for the care of the foster child(ren) for twenty-four hours or more.

## **2. LICENSING PROCEDURES**

- A. Any person who makes application for a license to operate a specialized home for children under 18 years of age, including family foster care for Indian children, and who has been determined to be in compliance with applicable licensing requirements may receive a license from the Department. There is no charge for this license.
- B. The maximum number of children to be placed in a specialized children’s home shall be stated on the license. The license may be reissued for a larger or smaller number of children. In determining the maximum number, the Department shall consider such factors as: living space, safety issues, health, status and age of the children and the ability of the foster parents to adequately care for and supervise children in the household. Foster parents shall not exceed the number of children for whom they are licensed with the following exception: in order to keep siblings together the foster parents may receive written approval from the Foster Care Licensing Worker or Foster Care Licensing Supervisor. In order to receive this exception there must be either a sibling already placed in the home or at least one licensed slot is vacant and adequate space is available in the foster home.

## **3. LICENSING REQUIREMENTS FOR SPECIALIZED CHILDREN’S FOSTER HOMES**

### **A. QUALIFICATIONS OF THE FOSTER PARENTS AND RESPITE PERSONNEL**

- (1) The foster family shall have an ongoing, predictable income to assure that the home is maintained in conformity with the requirements of these regulations. The Department will consider licensure without requiring any other outside source of income in limited circumstances. Foster families who provide foster care through licensed child care placing agencies will need to furnish the Department with a statement of predictable income from that agency to assure that the household is maintained in compliance with predictable income. The income statement will indicate the actual income received from the placing agency. The foster family will also submit a statement describing how the family would remain financially stable during times when the child placements in the home are less than full capacity.

- (2) The primary caregiver shall have had verifiable experience working with moderately to severely handicapped children. Such experience shall be from one or both of the following:
  - a. One year of experience as a licensed family foster home parent.
  - b. Six months work experience with moderately to severely handicapped children.
- (3) Foster parents shall participate in ongoing training of at least 36 hours for the licensee(s)' combined hours of training, with a minimum of at least 12 of those hours completed by the secondary foster parent, if applicable, within the two-year licensing period. The training must be related to the special needs of moderately to severely handicapped children. At the time of initial and renewal licensure, the Foster Care Licensing Worker will provide the licensee(s) with a list of required training and of approved training options. Documentation of required training must be provided to the Foster Care Licensing Worker at the time of license renewal.
- (4) The foster family shall not care for adult boarders or roomers or operate under any other license to provide child care. The only allowable exception to this rule would be to allow the foster family's former foster child to continue residing in the home as an adult or to allow the former foster child to return at a later date to live in the home.

Exception to this rule must receive prior approval from the Foster Care Licensing Supervisor.

#### **B. NUMBER AND AGES OF CHILDREN IN CARE**

- (1) The total number of children in a Specialized Children's Foster Home may not exceed 4, including the family's legal children under 16 years of age, with no more than 2 children under the age of 2. The maximum number of licensed slots cannot exceed 3. Two of those licensed slots may be used for children who require therapeutic level care. The third licensed slot is intended for a child who is placed for respite care or for a child, who at time of placement needed therapeutic level care and has made improvement and no longer requires therapeutic level care. The only exception to the two therapeutic placement limit is if this child exhibits a significant change in behavior and it is determined that therapeutic level care is indicated or if a sibling placed requires therapeutic care. Exception to this rule must receive prior approval from the Program Administrator.
- (2) The only exception, which may be made to the number and ages of children, is to allow siblings to be placed together. The exception is applicable only when adequate space is available in the foster home. In order for an exception to apply there must either be a sibling already placed in the home or one vacant licensed slot. The Foster Care Licensing Supervisor must approve requests for exception to the limit.

**4. REPEAL OF PREVIOUS RULES**

- A. These rules governing the licensing of Specialized Children's Homes supersede all previous rules regarding Specialized Children's and become effective July 12, 2010.
- B. These rules shall apply to all applications received after the effective date.
- C. The license for any family foster home for children issued prior to the effective date of these rules shall remain in effect until the expiration date of that license. Compliance with these rules shall be required at the time of renewal of these licenses unless otherwise specified in these rules.

**5. REVIEW OF THESE RULES**

These rules governing the licensing of Specialized Children's Homes shall be reviewed periodically as required by 42 U.S.C. Section 671(a)(11).

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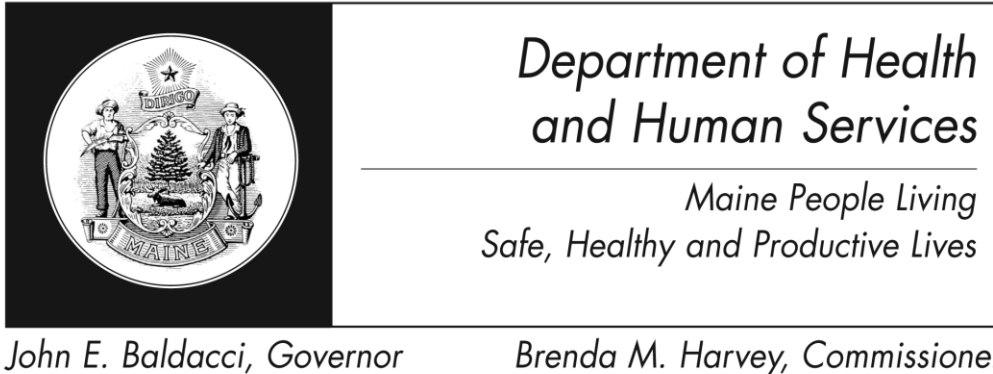
STATUTORY AUTHORITY: 22 M.R.S.A. §8102.

EFFECTIVE DATE:

December 3, 2007 – filing 2007-503

AMENDED:

Effective Date: July 12, 2010 – filing 2010-188



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