

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 401
LICENSING STANDARDS FOR
CHILD WELFARE AGENCIES

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AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10] and the Adoption Act [750 ILCS 50].

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SOURCE: Adopted and codified at 5 Ill. Reg. 11351, effective November 12, 1981; amended at 7 Ill. Reg. 3428, effective April 4, 1983; amended at 11 Ill. Reg. 17511, effective October 15, 1987; amended at 21 Ill. Reg. 4502, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 9151, effective July 1, 1997, for a maximum of 150 days; emergency amendment modified in response to JCAR Objection at 21 Ill. Reg. 13929 and 14379; emergency expired on November 26, 1997; amended at 22 Ill. Reg. 10329, effective May 26, 1998; amended at 24 Ill. Reg. 9340, effective July 7, 2000; emergency amendment at 26 Ill. Reg. 6857, effective April 17, 2002, for a maximum of 150 days; emergency expired September 13, 2002; amended at 27 Ill. Reg. 494, effective January 15, 2003; amended at 28 Ill. Reg. 10588, effective August 1, 2004; emergency amendment at 29 Ill. Reg. 15562, effective September 30, 2005, for a maximum of 150 days; emergency expired February 26, 2006; amended at 30 Ill. Reg. 2699, effective February 27, 2006; amended at 36 Ill. Reg. 2157, effective January 30, 2012; amended at 37 Ill. Reg. 19115, effective November 30, 2013

SUBPART A: INTRODUCTION AND DEFINITIONS

Section 401.30 Purpose

- a) The purpose of this Part is to prescribe the standards for licensure as a child welfare agency and to describe how to apply for a child welfare agency license. This Part also prescribes the duties of a child welfare agency to monitor and supervise child care facilities under its supervisory authority.
- b) The licensing standards set forth in this Part are applicable to child welfare agencies as defined in the Child Care Act of 1969 [225 ILCS 10/2.08]. Granting a license to a child welfare agency does not guarantee a contract with the State of Illinois or the Illinois Department of Children and Family Services.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

Section 401.40 Definitions

"Adequate assets" means the child welfare agency has sufficient liquid assets in reserve or has other sources of income and a line of credit independent of Department contracts which would allow it to provide continuous agency operations and provide services such as staff, taxes, rent, utilities, and supplies for a period of at least 30 days.

"Administrative order of closure" means a severe administrative sanction, approved by the Director of the Department of Children and Family Services, to close immediately an unlicensed child care facility, a child care facility which is exempt from licensure, or a licensed child care facility prior to revocation of the facility's license. An administrative order of closure is issued only when continued operation of the child care facility jeopardizes the health, safety, morals, or welfare of children served by the facility.

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"Adoption services" includes any one or more of the following services performed for any type of compensation or thing of value, directly or indirectly:

arranging for the placement of or placing out of a child,

identifying a child for adoption,

matching adoptive parents with biological parents,

arranging or facilitating an adoption,

taking or acknowledging consents or surrenders for termination of parental rights for purposes of adoption, as defined in the Adoption Act,

performing background studies on a child or adoptive parents,

making determinations of the best interests of a child and the appropriateness of adoptive placement for the child, or

post-placement monitoring of a child prior to adoption.

"Adoption services" does not include the following:

the provision of legal services by a licensed attorney for which the attorney must be licensed as an attorney under Illinois law,

adoption-related services performed by public governmental entities or entities or persons performing investigations by court appointment as described in subsection A of Section 6 of the Adoption Act,

prospective adoptive parents operating on their own behalf,

the provision of general education and training on adoption-related topics, or

post-adoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families.

[225 ILCS 10/2.24]

"Advertise" means communication by any public medium originating or distributed in this State, including, but not limited to, newspapers, periodicals, telephone book listings, outdoor advertising signs, radio, or television. [225 ILCS 10/12]

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"Age appropriate safety restraint" means, for a child under four years of age, a child restraint system (infant carrier, infant/toddler seat, or convertible safety seat) which meets the standards of the United States Department of Transportation designed to restrain, seat or position children. For a child four years of age or older, an age-appropriate safety restraint means a child restraint system or seat belt (lap belt or lap-shoulder belt combination).

"Authorized representative of the governing body" means the person authorized by formal action at a meeting of the Board of Directors to act on behalf of the child welfare agency and sign the license renewal application (but not the initial application for license), contracts, and other such documents, on behalf of the governing body. Such authorization shall be in writing on agency letterhead, submitted to the Department licensing worker, and signed by the president or chairperson of the Board of Directors and the secretary of the Board of Directors.

"Background check" means:

a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI), for comparison to their criminal history records, as appropriate; and

a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

a check of the Illinois Sex Offender Registry.

"Chief fiscal officer" means the staff position with primary responsibility for the receipt, distribution and accounting for all financial transactions of the agency.

"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody, in any facility as defined in this Act, established and maintained for the care of children. "Child care facility" includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child welfare agency" means a public or private child care facility, receiving any child or children for the purpose of placing or arranging for the placement or

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free care of the child or children in foster family homes, unlicensed pre-adoptive and adoptive homes, or other facilities for child care, apart from the custody of the child's or children's parents. The term "child welfare agency" includes all agencies established and maintained by a municipality or other political subdivision of the State of Illinois to protect, guard, train or care for children outside their own homes and all agencies, persons, groups of persons, associations, organizations, corporations, institutions, centers, or groups providing adoption services, but does not include any circuit court or duly appointed juvenile probation officer or youth counselor of the court, who receives and places children under an order of the court. [225 ILCS 10/2.08]

"Complaint", for purposes of this Part, means any oral or written report made to or by the Department or supervising agency or by the public alleging a violation of licensing standards, the Child Care Act of 1969 or relating to the conduct of an agency or its staff.

"Conditional license" means a nonrenewable license for a period not to exceed six months which may be granted to a child care facility when the facility has agreed to a corrective plan to amend identified deficiencies and bring the facility into reasonable compliance with all licensing standards. Conditional licenses may be issued with the approval of the Department only where no threat to the health, safety, morals or welfare of the children served exists. Any other license held by the facility shall be revoked when the conditional license is issued.

"Corporal punishment" means hitting, spanking, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain. (National Health and Safety Performance Standards, Guidelines for Out-Of-Home Child Care Programs, American Public Health Association and American Academy of Pediatrics, 2002).

"Corrective plan" means a written plan approved by the Department's regional licensing administrator which identifies deficiencies in a child care facility's operations and which allows the facility a maximum of six months to correct the identified deficiencies and come into reasonable compliance with all applicable licensing standards.

"Deemed compliant" means that an eligible agency, accredited by the Council on Accreditation for Children and Family Services (COA), is presumed to be in compliance with requirements of this Part, provided that the Department has determined that current Council on Accreditation for Children and Family Services (COA) standards are at least substantially equivalent to this Part requirements. [225 ILCS 10/2.27]

"Deemed status" means the Department has approved a child welfare agency as in compliance with the requirements of this Part because the agency:

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has received full accreditation status from the Council on Accreditation for Children and Family Services (2001 Standards); and

during the past four years, there have been no substantiated licensing violations that affect the health, safety, morals, or welfare of children served by the accredited agency.

"Department" means the Illinois Department of Children and Family Services. [225 ILCS 10/2.02]

"Eligible agency" means a licensed child welfare agency that is currently fully accredited by the Council on Accreditation for Children and Family Services (COA) for adoption services and has had no Department substantiated licensing violations or COA accrediting violations that affect the health, safety, morals, or welfare of children served by that agency for the 4 years immediately preceding a determination of eligibility. [225 ILCS 10/2.26]

"Excessive fees" means an amount that exceeds what is usual, reasonable and customary in the community for the delivery of adoption services in Illinois and shall take into account the full range and duration of services provided by the agency to birth parents and their children, and to adoptive parents, for expenses paid by the agency for medical costs and whether the agency provides a program of reduced-fee placements and services and places special needs children for adoption. Adoption service fees must be based on the costs associated with service delivery and clients may be charged only for services provided.

"Full license" means the agency is operating under a current child welfare agency license rather than a permit, a provisional license, a conditional license, or a license which has been revoked or which has expired after the agency failed to file a timely and sufficient application for license renewal.

"Governing body" means all members of the board of directors of a corporation.

"Guardian" means the guardian of the person of a minor. [225 ILCS 10/2.03]

"Immediate family member" means a person's spouse, son, daughter, mother, father, sibling, brother- or sister-in-law, or other legal dependent.

"Inadequate assets" means the child welfare agency has less than 30 days of operating expenses available to them in liquid assets as required by the definition of adequate assets in this Section.

"Initial application for license" means the first application for licensure as a child welfare agency submitted by the individual, corporation, or other legal entity.

"License" means a document issued by the Department of Children and Family

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Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant" means those individuals, corporations, or other legal entities who have applied for a license from the Department of Children and Family Services.

"Licensee" means those individuals, corporations or other legal entities who hold a license or permit issued by the Department of Children and Family Services.

"Licensing worker" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"New application for child welfare agency license" means a license is sought to operate a child welfare agency when:

the applicant has applied previously for a child welfare agency license and withdrew the license application before a decision was made on the application for license; or

the applicant had been licensed previously as a child welfare agency, but voluntarily surrendered the license; or

the applicant had been licensed previously as a child welfare agency, but the Department revoked or refused to renew the license.

"Permit" means a one-time only document issued by the Department of Children and Family Services to allow the license applicant to become eligible for an initial license. Permits may be for a maximum six month period, except that permits granted to foster family homes and day care homes are limited to a maximum of two months.

"Petty offense" means any offense for which a sentence to a fine only is provided. (Section 5-1-17 of the Unified Code of Corrections [730 ILCS 5/5-1-17])

"Preferential treatment" means any action that allows board members, contributors, volunteers, employees, agents, consultants, or independent contractors, or their relatives, to receive consideration with respect to the placement of a child or any matter that relates to adoption services that are different or more favorable than any other similarly situated applicants.

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"Provisional license" means a license issued for a period not to exceed two years to allow a licensed child welfare agency to demonstrate the ability to operate a business in compliance with applicable standards. During the provisional license period, the Department may exercise more stringent oversight or place more stringent requirements on the child welfare agency.

"Psychotropic medication" means medication whose use for antipsychotic, antidepressant, antimanic, antianxiety, behavioral modification or behavioral management purposes is listed in the AMA Drug Evaluations (Drug Evaluation Subscription, American Medical Association, Vols. I-III, Summer 1993) or Physician's Desk Reference (Medical Economics Data Production Company, 49th Edition, 1995) or which are administered for any of these purposes. (Section 1-121.1 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-121.1])

"Reasonable living expenses" means expenses of the biological parents related to activities of daily living and meeting basic needs, including but not limited to: lodging, food and clothing. The term does not include expenses of lost wages, gifts, education or other similar expenses of the biological parent.

"Refusal to issue license" means the formal decision of the Department to decline to issue a license to the holder of a permit.

"Refusal to renew a license" means the formal decision of the Department to decline to issue a succeeding license, although the licensee has submitted a timely and sufficient application for license renewal, to the holder of a child care facility license or permit.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children receiving care in a licensed child care facility outside the visual or auditory supervision of facility staff.

"Reputable character" means there is satisfactory evidence that the moral character of the applicant is trustworthy.

"Responsible" means trustworthy performance of expected duties in accordance with established professional standards, State and federal law, and the rules of the Department of Children and Family Services.

"Revocation" means the termination of a full license or provisional license to operate a child care facility by a formal action of the Department. License revocations shall be conducted in accordance with Section 8 or 8.1 of the Child Care Act of 1969 [225 ILCS 10/8 and 8.1].

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"Risk management plan" means a document developed in accordance with Appendix D of this Part that outlines the process for identifying and analyzing loss exposures, examining alternative risk control methods, and making and carrying out decisions that will minimize the adverse effects of accidental losses.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"Surrender for adoption" means a voluntary final and irrevocable act, in writing, by a biological parent to relinquish all parental rights of a child to an agency for the purpose of placing the child for adoption.

"Suspension of license" means an action imposed, in writing, by the authorized designee of the Department that requires cessation of all adoption related activities by the adoption agency.

"Timely and sufficient application for license renewal" means the child welfare agency submitted the application for renewal of the license at least 90 days before the expiration date, the application was complete, dated, and signed by an authorized party, and the materials required by Section 401.140 were attached to the application for license renewal. License renewal applications for foster family homes or day care homes under the supervision of the child welfare agency are considered timely if the application was returned to the agency within the time frames required by the respective licensing standards 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) or 89 Ill. Adm. Code 406 (Licensing Standards for Day Care Homes).

"Unlicensed pre-adoptive and adoptive home" means any home that is not licensed by the Department and that receives a child or children for the purpose of adopting the child or children. [225 ILCS 10/2.25]

"Valid license" means a license which has not been revoked or expired, or which would have expired except that the child welfare agency submitted a timely and sufficient application for license renewal and the Department has not yet rendered a decision on the application, and the facility has not been issued an administrative order of closure.

"Voluntary surrender of license" means that, in writing, the licensee has offered and the Department has accepted the licensee's offer to give up a valid license of his, her or its own free will. The Department is not required to accept the offer of the license and, in the Department's sole discretion, may decline to accept the license.

(Source: Amended at 30 Ill. Reg., effective February 27, 2006)

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SUBPART B: PERMITS AND LICENSES

Section 401.100 Application for License

- a) The initial application for license as a child welfare agency shall be completed by the officers of the governing body of the child welfare agency on forms prescribed and furnished by the Department.
- b) For the initial application for a license to be complete, the following shall be attached to the application:
 - 1) Agencies not providing adoption services shall include the agency's articles of incorporation and by-laws, indicating that the agency's corporate status is in good standing with the Illinois Secretary of State and, if a not-for-profit corporation under Section 501 of the Internal Revenue Code (26 USCA 501), a copy of the Internal Revenue Service ruling on the agency's exemption status from Federal income tax and registration with the Charitable Trust Bureau of the Attorney General's office (if applicable);
 - 2) Agencies not providing adoption services shall include a list of owners, officers, board members, and principal shareholders owning more than 5% of the stock of the corporation and each person's attestation that he or she has not been convicted of a felony or indicated as a perpetrator of child abuse or child neglect, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect). This includes any or all of the above persons who reside outside the State of Illinois. The board list shall include the board chair's name, home address and telephone number that is in addition to the agency's telephone number, the officers of the board; names of the board members; and committees of the governing body;
 - 3) Agencies providing adoption services shall attach to the initial application:
 - A) A current copy of the Internal Revenue Service's ruling showing that the agency is officially recognized by the United States Internal Revenue Service as a tax-exempt organization under section 501 (c)(3) of the Internal Revenue Code of 1986 (26 USC 501);
 - B) A current copy of registration with the Charitable Trust Bureau of the Illinois Attorney General's office;
 - C) Copies of 990 reports filed with the Internal Revenue Service in the preceding 3 years (if applicable);

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- D) Articles of incorporation and by-laws, indicating that the agency's corporate status is in good standing with the Illinois Secretary of State; and
 - E) A list of officers, board members, and each person's attestation that he or she has not been convicted of a felony or indicated as a perpetrator of child abuse or child neglect, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect). This includes any or all of the above persons who reside outside the State of Illinois. The board list shall include: The board's chair name, home address and telephone number that is in addition to the agency's telephone number and the remaining names of the officers of the board; names of the board members; and committees of the governing body.
- 4) A mission statement or statement of purpose including services to be provided and the types of child care facilities to be operated and supervised by the agency, including a plan for recruiting foster family and adoptive homes, as required to fulfill the agency's mission or purpose;
 - 5) Proposed operating budget for the first two years of operation;
 - 6) Range of services to be provided within the first two years of operation; and
 - 7) A comprehensive staffing plan which includes job descriptions and the qualifications of the staff for all child welfare programs to be provided by the agency. If the child welfare agency operates within a multi-service agency, those staff positions that perform no functions for the child welfare agency do not need to be included in the staffing plan. If the child welfare agency intends to operate branch offices, the address, telephone number and staffing plan for each of the branch offices is to be included in the initial application (if known) or reported to the Department within 30 days after the location for a branch office is secured.
- c) In addition, the license applicant shall have the following items available for review when the licensing worker visits the agency headquarters.
 - 1) A list of current employees of the child welfare agency, persons the agency has made a commitment to hire and:
 - A) Certified transcripts of each employee's educational credentials (if obtained from a foreign school or university, the credentials must be translated into English and include a statement of equivalency in the United States educational system);

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- B) Verification of prior work history, when the work history is required to qualify for the current position;
 - C) Copy of current professional license or registration, if required. (See Appendix G for a list of professionals commonly used by a licensed child welfare agency who must be licensed or registered.); and
 - D) If the individual is subject to the background check requirements of 89 Ill. Adm. Code 385 (Background Checks) a copy of each employee's complete, signed authorization to conduct a background check.
- 2) The agency's written personnel policies, including written compensation policies and salary levels.
 - 3) The agency's written service delivery policies.
 - 4) The agency's risk management plan developed in accordance with Appendix D of this Part.
 - 5) The agency's documentation of current public liability insurance as required by Section 401.220(g).
 - 6) The agency's code of ethics which has been adopted by the governing body which must be at least as stringent as the Code of Ethics for Child Welfare Professionals (published by the Office of Communications, Department of Children and Family Services, 406 East Monroe, Station #65, Springfield, Illinois 62701 (May 1996) or found on the Department's website at www.state.il.us/dcfs).
 - 7) The agency's financial management policies.
- d) If the corporate status or ownership of the child welfare agency changes, the new corporate entity must file an initial application for a child welfare agency license as the new corporation.
 - e) A new application for a child welfare agency license shall be filed when:
 - 1) An application for license as a child welfare agency has been withdrawn before a decision was made on the application and the agency seeks to reapply; or
 - 2) The applicant had been licensed previously as a child welfare agency, but voluntarily surrendered the license, and any waiting period agreed to when the voluntary surrender was accepted has expired; or

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- 3) The applicant had been licensed as a child welfare agency, but the Department revoked or refused to renew the license and the requirements of subsection (f) of this Section have been fulfilled.
- f) A new application may be submitted at any time when a license, permit or application has been voluntarily surrendered or withdrawn by the applicant unless the applicant has signed an agreement with the Department not to reapply for a license for a specified period of time. Once an investigation of the facility has been commenced, the license may be voluntarily surrendered only with the signed, written agreement of the regional licensing administrator on the form prescribed in Appendix F.
- g) If the Department has revoked or refused to renew the license of a child welfare agency and the agency seeks to reapply for a license, it may do so if at least 12 months have passed since the effective date of the revocation or refusal to renew. If a new license is granted to the applicant, the Department shall issue a provisional license to the applicant for a period not to exceed two years. *The denial of a reapplication for a license pursuant to this subsection must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of satisfying the standards and rules promulgated by the Department pursuant to the Child Care Act of 1969, or maintaining a facility which adheres to such standards and rules.* [225 ILCS 10/6(c)]
- h) The applicant shall submit an original and one copy of the application for license and all required documentation.

(Source: Amended at 30 Ill. Reg., effective February 27, 2006)

Section 401.110 Provisions Pertaining to Permits

- a) A permit shall be issued before a provisional license is granted, but shall not be issued prior to the following:
 - 1) Completion of the application for license and submission of the original and one copy of the application and all required supporting documentation to the Department;
 - 2) Employment of an executive director who has passed the background check requirements of 89 Ill. Adm. Code 385 (Background Checks) and who meets the requirements of Section 401.300;
 - 3) Development of a projected staffing plan indicating the time table by which qualified staff shall be hired;

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- 4) Establishment of procedures and forms for required records and reports in Sections 401.260 and 401.270;
 - 5) Submission of a written plan that indicates how requirements for a license shall be met within the permit period;
 - 6) Submission of a projected budget for at least the next two years that has been approved by the governing body. Letters of commitment must be attached for any projected grant or contract;
 - 7) Submission of a risk management plan as outlined in Appendix D, Minimum Requirements for a Risk Management Plan, of this Part; and
 - 8) Documentation of current public liability insurance as required by Section 401.220(g).
- b) A permit shall not be issued retroactively.
 - c) The permit shall not be renewable.
 - d) The permit shall not be transferred or transmitted to another legal entity.
 - e) The permit shall not be valid for a name or address different from the name and address shown on the issued permit.
 - f) The child welfare agency shall adhere to the provisions specified on the permit.
 - g) A current permit shall be on display at the agency headquarters at all times while the agency is operating under a permit.
 - h) A provisional license shall be issued any time within the six months period covered by the permit provided the child welfare agency achieves and maintains reasonable compliance with the Department's licensing standards.
 - i) There shall be no fee or charge for the permit.

(Source: Amended at 30 Ill. Reg., effective February 27, 2006)

Section 401.120 Provisional Licenses

- a) The Department may restrict the operation of the child welfare agency by attaching provisions to the license, such as those identified in subsection (c) of this Section. Provisional licenses shall be issued for the first two years to applicants for initial license as a child welfare agency when the applicant successfully completes the six-month permit period and has achieved and maintained reasonable compliance with the standards in this Part. In addition, a

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provisional license may be issued when a former license holder seeks to reapply after the license was voluntarily surrendered or after the Department revoked or refused to renew the former license.

- b) Good cause for issuing a provisional license to a former or current holder of a child welfare agency license is evidenced by, but not limited to:
- 1) an excessive number of indicated child abuse or neglect reports involving agency staff in their professional duties or foster family, relative, day care, and group homes supervised by the child welfare agency; or
 - 2) lack of financial responsibility as evidenced by maintaining inadequate assets or by late payment (more than ten days after the scheduled payment date) of foster parents, tax obligations, or other evidence of financial instability; or
 - 3) inadequate or missing records or reports, as required by this Part; or
 - 4) failure to supervise foster family, relative, day care, and group homes, as required by Department of Children and Family Services rules, 89 Ill. Adm. Code 301 (Placement and Visitation Services), 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes), 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes), 89 Ill. Adm. Code 406 (Licensing Standards for Day Care Homes), and 89 Ill. Adm. Code 408 (Licensing Standards for Group Day Care Homes), as applicable;
 - 5) failure to promptly process foster parent licensing applications, provide required training of foster parents and adoptive parents, provide information to foster parents regarding policy and procedures applicable to foster parents and foster children or adoptive parents and adoptable children, or to recruit foster family and adoptive homes to care for the children served;
 - 6) failure to recommend foster family and day care home licenses for renewal before the expiration date of the license when the licensee has made a timely and sufficient application for license renewal;
 - 7) failure to submit an annual implementation plan pursuant to the Foster Parent Law [20 ILCS 505/7.27] and to implement the plan as submitted; or
 - 8) other good cause when supported by adequate documentation that the agency is failing to operate in the interest of its clients or the general public.

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- c) The child welfare agency shall adhere to the provisions specified on the license which may include, but are not limited to:
- 1) establishing specific supervisor/child welfare staff ratios that the child welfare agency must maintain; or
 - 2) requiring at least six bi-monthly meetings of the Board of Directors and greater involvement from the Board of Directors in agency operations; or
 - 3) requiring oversight by a certified public auditor who provides periodic reports to the Department; or
 - 4) requiring additional training of staff around specific deficiencies identified in a corrective plan; or
 - 5) requiring other supportive or corrective measures as deemed necessary in writing by the Department.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

Section 401.130 Provisions Pertaining to Licenses

- a) A full child welfare agency license is valid for 4 years unless revoked by the Department or voluntarily surrendered by the licensee. Provisional licenses are valid for 2 years.
- b) The Department shall revoke or refuse to renew the license of any child welfare agency providing adoption services, unless the agency:
- 1) *Is officially recognized by the United States Internal Revenue Service as a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law); and*
 - 2) *Is in compliance with all of the standards necessary to maintain its status as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986. [225 ILCS 10/4(e)]*
- c) A license shall not be transferred or transmitted to another legal entity.
- d) A license shall not be valid for a name or address other than the name and address shown on the license.
- e) The current license shall be displayed at the agency headquarters at all times.
- f) The licensee shall adhere to any and all provisions of the license.

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- g) There shall be no fee or charge for the license.

(Source: Amended at 30 Ill. Reg., effective February 27, 2006)

Section 401.140 Application for Renewal of License

- a) License renewal application forms shall be mailed to the child welfare agency by the Department six months prior to the expiration date of the license. For a renewal application to be considered complete, the following shall be attached to the application:
- 1) A complete listing of the names and addresses of all licensed and license-exempt child care facilities supervised by the child welfare agency and of any pending applications for licensure of a foster family or day care home which will be supervised by the child welfare agency;
 - 2) A current list of names, home addresses or Post Office Box, and contact telephone numbers, other than the agency's telephone number, of owners, officers, board members, and principal shareholders owning more than 5% of the stock of the corporation;
 - 3) A staff list, including name and job title, indicating those who are licensed under 89 Ill. Adm. Code 412.40 to practice as a direct child welfare service employee;
 - 4) Any pending investigations other than the Department investigations;
 - 5) The following documents if changes were made to them since the last application or renewal:
 - A) statement of purpose;
 - B) range of services; and
 - C) code of ethics; and
 - 6) For an agency providing adoption services whose license expires on or after August 15, 2007, documentation from the Internal Revenue Service showing that the agency is in compliance with all of the standards necessary to maintain its status as an tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code of 1986. In addition, the agency shall attach copies of any form 990 reports filed with the Internal Revenue Service in the preceding 3 years, if applicable. An agency providing adoption services whose license renewal is pending or whose license will expire prior to August 15, 2007, and that is unable to obtain

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501(c)(3) status prior to August 15, 2007, may be granted, at the discretion of the Department, up to a one year extension.

- 7) The extension may be granted by the Department when the adoption agency has demonstrated that it has made substantial progress in the process of becoming a tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code of 1986 and there is a likelihood of complying with the requirements within the extended period.
- b) The original of the completed application, along with the listing of child care facilities supervised by the agency, and one copy of all materials shall be submitted to the Department no later than 90 days before the date of the expiration of the child welfare agency's license.
- c) *When a licensee has made timely and sufficient application for renewal of a license and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, but such extensions shall be only upon good cause shown. [225 ILCS 10/5(d)]*
- d) After receipt of the application for license renewal, the Department shall conduct a license study that shall consist of a comprehensive licensing compliance review. The study may include unannounced visits if conducted within normal business hours, in order to determine that the child welfare agency continues to meet licensing standards. The licensing study shall include *an examination of the premises and records* of the child welfare agency to determine the degree of compliance with these standards and shall include:
 - 1) *Random surveys of parents or legal guardians who are consumers of the child welfare agency's services to assess the quality of care given and to determine if the child welfare agency is in compliance with the Foster Parent Law [20 ILCS 520];*
 - 2) A review of a representative sample of child care facilities supervised by the child welfare agency, which may include site visits to these facilities;
 - 3) A review of unusual incident reports, child abuse/neglect reports, financial and payment records, and other agency performance indicators to evaluate the quality of care provided through the agency;
 - 4) Interviews of child welfare agency employees, foster parents, biological parents, children receiving care through the licensed child welfare agency, and other clients that receive services from the child welfare agency; and

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- 5) A review of the records, staffing, and operations of any branch offices operated by the child welfare agency.
- e) The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing worker performing the study. *If the Department is satisfied that the facility continues to be in compliance with minimum standards which it prescribes and publishes, it shall renew the license to operate the facility.* [225 ILCS 10/6] A copy of the licensing study will be made available to the license applicant upon payment of all copying costs.

(Source: Amended at 30 Ill. Reg., effective February 27, 2006)

Section 401.141 License Transfer for Agencies Providing Adoption Services Seeking 501(c)(3) Status

- a) Licensed child welfare agencies providing adoption services shall obtain tax-exempt status from the Internal Revenue Service as described in section 501(c)(3) of the Internal Revenue Code of 1986.
- b) An existing child welfare agency may retain its current structure and be recognized as a 501(c)(3) organization as required by this Section or complete the process of application as an entity, if the creation of a new entity is required in order to comply with this Section, provided that:
 - 1) The agency provides to the Department a copy of the Internal Revenue Service ruling showing that the agency is officially recognized by the United States Internal Revenue Service as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;
 - 2) The child welfare agency demonstrates that it continues to meet all other licensing requirements; and
 - 3) The principal officers and directors and programs of the converted child welfare agency or newly organized child welfare agency are substantially the same as the original.
- c) The Department, at its sole discretion, may grant a one year extension to a child welfare agency unable to obtain 501(c)(3) status prior to August 15, 2007, provided that the agency has demonstrated good faith effort to obtain a 501(c)(3) status with the Internal Revenue Service prior to August 15, 2007 and presents documentation of that status to the Department.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

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Section 401.145 Renewal Application Under Deemed Status

- a) A child welfare agency in deemed status doing business with the Department shall submit to the Department;
 - 1) Signed and completed renewal application on forms provided by the Department;
 - 2) Written description of any change in the agency's corporate exempt status, charitable trust registration, and range of services provided;
 - 3) List of current employees, including the Executive Director;
 - 4) List of current board members including their names, home phone numbers, and addresses;
 - 5) List of all child care facilities supervised by the agency, including licensed and unlicensed foster family and day care homes, and all branch offices operated by the agency;
 - 6) Copy of any Corrective Plan currently in place;
 - 7) Copy of information submitted by the agency to the Council on Accreditation including:
 - A) Results of/information about the agency's consumer surveys;
 - B) Information regarding any "hold" on the agency's intake placed by the Council on Accreditation for children and Family Services (Council on Accreditation) including; was the hold for any part of the current license sequence; was the agency on hold at the time of renewal; reason for the hold, and duration of the hold status; and
 - C) Copy of the most recent Annual Maintenance of Accreditation Report the agency filed with the Council on Accreditation.
 - 8) Copy of letter the agency has from the Council on Accreditation showing that the agency is fully accredited.
- b) The Department shall obtain the following information from other sources about the agency in deemed status that is doing business with the Department
 - 1) Results of agency's financial audit and any documented financial problems;

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- 2) Number of indicated child abuse/neglect investigations and licensing complaint investigations involving homes and/or facilities supervised by agency;
 - 3) Council on Accreditation Confirmation that the agency is fully accredited and in good standing; and
 - 4) Confirm the hold information provided by agency with Agency Performance Team.
- c) **Agencies not doing business with the Department shall submit to the Department:**
- 1) Signed and completed renewal application on a form provided by the Department;
 - 2) Written description of any change (if applicable) in the agency's corporate exempt status, charitable trust status and range of services provided;
 - 3) List of current employees, including the Executive Director;
 - 4) List of current board members including their names, home phone number and addresses;
 - 5) List of all child care facilities supervised by the agency, including licensed and unlicensed foster family and day care homes;
 - 6) Copy of information the agency submitted to the Council on Accreditation regarding results of/information about the agency's consumer surveys;
 - 7) Copy of the last Annual Maintenance of Accreditation Report the agency filed with the Council on Accreditation;
 - 8) Copy of letter the agency has from the Council on Accreditation showing that the agency is fully accredited; and
 - 9) Copy of most recent audit.
- d) The Department shall obtain the following information from other sources about the agency in deemed status that is not doing business with the Department:
- 1) Number of indicated child abuse/neglect investigations and licensing complaint investigations involving homes and/or facilities supervised by the agency

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- 2) Confirm with the Council on Accreditation that the agency is fully accredited and in good standing

(Source: Added at 27 Ill. Reg. 494, effective January 15, 2003)

Section 401.150 Acceptance of Accreditation through Deemed Status

- a) When a child welfare agency is fully accredited by the Council on Accreditation for Children and Family Services (Council on Accreditation), Inc., 120 Wall Street, 11th Floor, New York, NY 10005 (2001 standards) and there have been no substantiated licensing violations that affect the health, safety, morals, or welfare of children served by that agency for the last four years, that child welfare agency is deemed to be in compliance with the program requirements of this Part.
- b) The Department shall verify in writing with the Council on Accreditation that the agency's accreditation continues to be in good standing and shall conduct annual monitoring visits to verify the continued compliance of the child welfare agency with the requirements of this Part.
- c) If a licensing complaint is substantiated against an accredited child welfare agency, the Department licensing worker shall notify in writing the Council on Accreditation of the substantiated violations. The child welfare agency shall receive a copy of this notice.
- d) If a substantiated licensing violation may affect the health, safety, morals, or welfare of the children served by the child welfare program, the agency shall be removed from "deemed status" and a full license study shall be conducted as part of the license renewal process.

(Source: Amended at 27 Ill. Reg. 494, effective January 15, 2003)

Section 401.155 Removal of Agency from Deemed Status

The following shall occur before the Department is to remove and agency from Deemed Status:

- a) The Department shall have documentation of one or more substantiated violations that affect the health, safety, morals or welfare of children served by the agency's program.
- b) After review and confirmation of the substantiated violation by the licensing supervisor and manager, the Central Office of Licensing shall submit a recommendation for removing the agency from deemed status to a 5-member panel comprised of representatives from the Divisions of Quality Assurance, Purchase of Service Monitoring, Program Operations, and the Offices of Child and Family Policy and Licensing.

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- c) The 5-member panel shall review the recommendation for removing the agency's deemed status.
 - 1) If the panel concurs with the recommendation, the panel shall forward the recommendation to the Director for final approval.
 - 2) If the panel does not concur with the recommendation, the agency will maintain in deemed status.
- d) The Department shall notify the agency in writing of the Director's decision to remove or maintain the agency in deemed status.

(Source: Added at 27 Ill. Reg. 494, effective January 15, 2003)

Section 401.160 Voluntary Surrender of License

- a) At any time, a licensee may offer to voluntarily surrender a valid license. The licensee must verify whether:
 - 1) the Department is investigating the child welfare agency for any licensing complaint or report of suspected abuse or neglect involving the agency;
 - 2) litigation is pending between the child welfare agency and the Department; or
 - 3) the child welfare agency suspects that it or facilities supervised by it are under investigation by any state agency of any state, their respective inspectors general, or any local, State or federal law enforcement agency.
- b) The child welfare agency shall attach to the offer of voluntary surrender a complete listing of the names and addresses of all licensed child care facilities supervised by the agency, of any pending license applications which have not yet been determined by the agency, and of any license exempt day care homes, relative care homes, independent living facilities, or other programs operated by the child welfare agency.
- c) Before accepting a voluntary surrender of license, the regional licensing administrator shall review the listing of the names and addresses of the facilities and programs supervised by the child welfare agency to determine whether it is complete and correct. In addition, the regional licensing administrator shall determine whether:
 - 1) the Department is investigating the child welfare agency for any licensing complaint or report of suspected abuse or neglect involving the agency;

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- 2) litigation is pending between the child welfare agency and the Department; and
 - 3) the Department has been notified by another state agency, their respective inspectors general, or any local, State or federal law enforcement agency that the child welfare agency is under investigation.
- d) The Department may discharge its obligation to determine whether an investigation is pending and whether the Department has received notice of an investigation by the DCFS-Office of the Inspector General or any local, State or federal law enforcement agency, by examining local licensing records, reviewing the voluntary offer of surrender signed by the child welfare agency, checking with the Central Office of Licensing, the State Central Register, the DCFS-Office of Inspector General, the Office of Legal Services, the Division of Purchase of Service Monitoring, and the Office of Internal Audits.
- e) If the licensee has verified and the Department has determined that the child welfare agency is not under investigation and not engaged in litigation with the Department, a licensing administrator may, but is not required to, accept the offered voluntary surrender of the license. Such voluntary surrenders must be executed on the form prescribed in Appendix E of this Part.
- f) If the licensee has verified and the Department has determined that the child welfare agency is under investigation or is engaged in litigation against the Department, only a DCFS licensing administrator may, but is not required to, accept the offered voluntary surrender of the license. Such voluntary surrenders must be executed on the form prescribed in Appendix F of this Part.
- g) If, at any time after the acceptance of a voluntary surrender of license, the Department discovers that the child welfare agency knew or should have known that it was under investigation at the time it offered to surrender its license and failed to disclose the information to the Department, the Department at its option may set aside its acceptance of the surrender and proceed to take appropriate action against the licensee and the license, including, but not limited to, the revocation of the license or refusal to renew the license.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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SUBPART C: ADMINISTRATION AND FINANCIAL MANAGEMENT

Section 401.200 Agency Corporate Status

a) Tax Exempt

A child welfare agency providing adoption services after August 15, 2007 shall be officially recognized by the United States Internal Revenue Service as a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

b) Incorporation

The child welfare agency shall be incorporated, either for profit or not for profit. The Board of Directors of the corporation shall consist of at least five members, at least one of whom shall be an Illinois resident. A copy of the certificate and articles of incorporation shall be filed with the Department at the time of application. A copy of any later amendment to the articles of incorporation or a copy of a certificate of dissolution shall be filed with the Department no later than 30 days after the amendment or dissolution occurs. If the child welfare agency which claims tax exemption under section 501 of the Internal Revenue Code is incorporated as a not-for-profit agency, the agency also must submit proof of the Internal Revenue Service ruling on its tax exempt status and proof whether it has registered as a charitable organization with the Illinois Attorney General. The child welfare agency shall notify the Department in writing of any change in its not-for-profit or charitable organization status within 30 days after notice from the Internal Revenue Service or Illinois Attorney General, respectively.

(Source: Amended at 30 Ill. Reg., effective February 27, 2006)

Section 401.210 Composition and Responsibilities of the Governing Body

- a) The governing body of a child welfare agency shall be all the members of the board of directors of the corporation.
- b) Each member of the governing body of the child welfare agency and principal shareholders (owning 5% or more of the corporate stock) shall be of reputable and responsible character who shall certify that they have never been convicted of a felony or indicated as a perpetrator in a child abuse or neglect report, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect).
- c) The governing body may create an executive committee or a child welfare committee that has been delegated limited decision making authority. The executive committee may act on behalf of the governing body in emergency matters.

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- d) The governing body shall:
- 1) Establish written by-laws that govern the major operations of the agency and that outline the duties of the officers of the board of directors and committees to be established by the board of directors;
 - 2) Set long range goals for the agency;
 - 3) If incorporated as a not-for-profit corporation, adopt a conflict of interest policy that requires, at a minimum:
 - A) That no member of the board of directors may derive any personal profit, directly, by reason of his or her membership on the board of directors or because of services provided to the board (the restriction against deriving profit from a transaction does not apply as long as the goods or services provided to the agency are priced at or below market value and are documented in the agency's financial reports);
 - B) That each board member must disclose to the board any personal interest that he or she or any member of his or her immediate family may have in any current or potential matter before the board and refrain from participating in any decision on those matters;
 - C) That no member of the executive director's or the chief financial officer's immediate family shall serve on the board of directors for the child welfare agency and no member of any board member's immediate family may serve as executive director, the chief financial officer, or an independent contractor of the agency;
 - D) That there shall be no familial relationship between the executive director and the chief financial officer;
 - 4) If incorporated as a for-profit corporation, adopt a code of conduct for the board;
 - 5) Insure that the child welfare agency operates at all times with a qualified, full-time executive director who, by official written notice, is made known to the Department. The governing body shall:
 - A) Approve a written job description for the agency executive director that delineates the executive director's responsibilities and authority and the governing body's expectations of the agency executive director;

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- B) Review and authorize all compensation for the agency executive director, including salary, allowances, memberships or other benefits;
 - C) Evaluate the agency executive director in writing at least annually;
- 6) Insure that an adequate process is in place for recruiting, hiring, and maintaining qualified child welfare supervisors and other staff required by this Part;
 - 7) Hold at least quarterly meetings, unless the agency holds a provisional license, thus requiring a minimum of bi-monthly meetings of the board of directors. *Unless specifically prohibited by the articles of incorporation or bylaws, directors or non-director committee members may participate in and act at any meeting of such board or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can communicate with each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating [805 ILCS 105/108.15];*
 - 8) Keep written records or minutes of all board meetings reflecting official actions of the board that shall contain, at a minimum, the date of each board meeting, the persons who were in attendance, the issues discussed in the meeting, any committee reports made to the board, the decisions made and actions taken. The minutes shall be available for review by the Department's licensing worker, upon request;
 - 9) Officially notify the Department in writing within 30 days after a change in the executive director or chief financial officer of the child welfare agency or of any major changes in the corporate structure, including, but not limited to:
 - A) Changes in the articles of incorporation or by-laws;
 - B) Changes in the not-for-profit status or tax exempt status as determined by the Internal Revenue Service (if applicable) or its charitable organization status as determined by the Illinois Attorney General;
 - C) Addition of any principal shareholder owning at least 5% of the stock of the corporation; or
 - D) Changes in the governing body or its officers;

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- 10) Establish written policies of the child welfare agency that shall be made available to all board members, employees, and agency clientele, including services to be provided by the agency, admissions, care of children, and other policies as needed to direct the agency, such as family visitation and community contacts with children;
- 11) Provide and maintain permanent offices accessible to the public and appropriate for the administrative program and supportive services. These offices, including all branch offices, shall be staffed during the business hours established by the agency, shall be equipped with telephones, shall have a permanent mailing address, shall not be in a private residence and shall have space available for confidential meetings;
- 12) Maintain and keep all records and documents required by this Part in the State of Illinois where they shall be readily available for review by authorized persons;
- 13) Insure fidelity bonding of fiscally responsible officers and employees against breach of fiduciary duty or the loss of monies, securities, or other property the agency may sustain through any fraudulent or dishonest act committed by an officer or employee acting alone or in collusion with others. These officers or employees must be bonded regardless of whether elected or appointed or whether compensated by salary;
- 14) Insure that the child welfare agency maintains adequate assets, as defined in Section 401.40, for responsible fiscal operation of the agency; and
- 15) Insure that all persons working directly with children are of reputable and responsible character, as verified by their employment history of at least the past three years, the status of any professional license they hold, and completion of the background checks required by 89 Ill. Adm. Code 385 (Background Checks).

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

Section 401.220 Organization and Administration

- a) The members of the governing body are responsible for maintaining the standards set forth in this Part. The governing body may delegate responsibility for day-to-day compliance with these standards to the agency executive director.
- b) The Office of Legal Services, Department of Children and Family Services, 100 W. Randolph, Chicago, Illinois 60601 shall be notified in writing within ten business days after receipt of any notice of legal action which may affect the child welfare operations of the agency. The notice shall include a copy of all complaints, notices, demands, orders and other relevant materials received by the

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agency. The Office of Legal Services shall forward a copy of all materials to the Central Office of Licensing.

- c) A complete, current set of licensing standards for child welfare agencies and all types of child care facilities supervised by the child welfare agency shall be available at all times in an area that is accessible to agency employees.
- d) The executive director and child welfare supervisors and staff shall have a working knowledge of the Child Care Act of 1969 [225 ILCS 10], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Children and Family Services Act [20 ILCS 505], the Juvenile Court Act of 1987 [705 ILCS 405], the Adoption Act [750 ILCS 50], and the Foster Parent Law [20 ILCS 520].
- e) Employees of a child welfare agency are mandated to report suspected child abuse or neglect directly to the State Central Register and are required to acknowledge their status as mandated reporters by signing a form prescribed by the Department when they begin their employment. Such reports shall be made immediately to the State Central Register as required by the Abused and Neglected Child Reporting Act. The telephone number for reporting is 800-252-2873.
- f) The child welfare agency shall develop a risk management plan, as described in Appendix D of this Part, that identifies potential financial and operational risks, specifies ways to reduce or eliminate the risks, and establishes procedures to be followed in an emergency or crisis.
- g) The child welfare agency shall carry public liability insurance in the single limit minimum amount of \$300,000 per occurrence.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

Section 401.230 Finances

- a) The agency shall maintain a degree of financial solvency that insures adequate care of the children for whom it has assumed responsibility. An agency is considered insolvent if its financial condition is such that the sum of its debts is greater than all of its property, at a fair valuation, exclusive of property transferred, concealed or removed with intent to hinder, delay or defraud its creditors. (This definition of "insolvency" is based on the definition contained in the United States Bankruptcy Code of 1978, 11 USC 101 (26).)
- b) The agency shall designate a chief fiscal officer who is responsible for the management of financial operations and the development of an annual operating budget. The board shall review and vote whether to accept, modify, or reject the proposed annual operating budget prior to the beginning of the agency's fiscal year. A copy of the approved annual operating budget shall be appended to the minutes of the meeting during which the budget was approved.

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- c) At least once per quarter, a report shall be submitted to the Board of Directors comparing budgeted revenues and expenses with actual revenues and expenses to the board of directors for their review and acceptance, request for modification, or rejection as insufficient.
- d) The agency shall maintain fiscal records that shall include:
 - 1) current and projected operating budget;
 - 2) quarterly analysis of projected versus actual revenues and expenses;
 - 3) records of a corrective plan to reduce the agency's deficit, if any, and progress toward complying with that plan; and
 - 4) financial records annually audited and certified by public accountants not otherwise affiliated with the agency.
- e) The above records shall be maintained and kept in the State of Illinois where they shall be readily available for review by authorized representatives of the Department. If the agency contracts with an outside accounting service, the agency must include in its contract the required availability of fiscal records to the Department.
- f) A certified copy of the agency's annual audit as performed by an independent auditor shall be submitted to authorized Department staff upon request.
- g) The agency shall submit the management representations regarding agency financial condition and operations, as required by Appendix C of this Part, to the Department within 180 days after the end of the agency's fiscal year.

(Source: Amended at 24 Ill. Reg. 9340, effective July 7, 2000)

Section 401.240 Background Checks

The agency shall have appropriate personnel procedures in place to insure that all persons subject to the background checks required by 89 Ill. Adm. Code 385 (Background Checks) authorize such checks and submit to fingerprinting (when required). The agency shall insure that only designated personnel review the background check information and make decisions about the suitability of the individual for licensure or employment. All background check information shall be maintained separately in a confidential file, apart from the employee's personnel records, which may be accessed only by authorized child welfare agency and Department staff.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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Section 401.250 Required Reporting to the Department

- a) Staff, Volunteers and Adoption Contractors
 - 1) The child welfare agency shall maintain and submit reports on staff, volunteers and independent adoption contractors to the Department on forms prescribed by the Department:
 - A) An individual report on each new employee or member of the governing body (including the owner, operator, principal shareholder owning at least 5% of the stock of the corporation or director) shall be filed with the Department within 30 days after the employment of the new employee or appointment of a new member of the governing body. A copy of this report shall be kept at the agency.
 - B) Copies of documentation of verification of educational achievement and documentation of prior work history (when required to qualify for the current position).
 - 2) Staff changes shall be reported monthly to the Department.
- b) License Status of Child Care Facilities Supervised by the Child Welfare Agency
The child welfare agency shall report in writing to the Department licensing office when the license status changes for a foster family home or day care home supervised by the agency. The reports shall be received within five days after the last day of each month for all license status changes in the month. Reportable changes in license status may include, but are not limited to:
 - 1) failure or refusal to renew the license;
 - 2) revocation or voluntary surrender of the license;
 - 3) change in the status of licensees (death, divorce or separation of a husband and wife, change in not-for-profit status);
 - 4) change of address of the licensee;
 - 5) change in license capacity;
 - 6) transfer of license supervision to another supervising child welfare agency; or
 - 7) foster or adoptive family moves out-of-state.
- c) Semiannual Monitoring of Licensed Facilities Supervised by the Agency

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The agency shall maintain and submit to the regional licensing office a list of the licensed facilities subject to monitoring, noting both the date that the agency has performed a semiannual monitoring visit at the facility and those facilities with violations or corrective plans, as documentation of compliance with Section 401.420(c) requiring semiannual monitoring.

- d) **Reports of Child Abuse and Neglect**
When there has been a report of child abuse or neglect in a foster family home or day care home that is supervised by the agency and a formal child abuse and neglect investigation begins, the agency shall send a complete copy of the licensing record and any other requested information to the Department's agency and institution licensing representative within 5 days after a request for the information.
- e) **Licensing Complaint Investigation**
The agency shall send a copy of the licensing complaint investigation file to the Department's licensing unit within 5 days after the conclusion of the complaint investigation.
- f) **Monthly Visits with Children in Placement**
The agency shall submit written quarterly reports to the regional licensing office listing the names of all children served by the agency, with the dates on which an agency child welfare worker visited each child, as documentation of compliance with Section 401.420(b) requiring monthly visits with foster parents and children in care.
- g) **Unusual Incident Reports**
The agency shall report to the Department unusual incidents as defined in 89 Ill. Adm. Code 331 (Unusual Incidents).
 - 1) **Involving Children**
The governing body or its designee shall orally report any unusual incidents involving children at the earliest reasonable time, but no later than the next business day after the incident, to the child's parent or guardian and the Department licensing worker. If the agency is unable to contact the parent or guardian and the Department immediately, it shall document this fact in the child's record. Unusual incidents include accident or injury requiring hospitalization, death, arrest, or other emergency situations. Oral reports shall be confirmed in writing within two business days after the occurrence.
 - 2) **Involving Employees, Foster Parents, or Relative Caregivers**
The governing body or its designee shall report to the Department licensing worker any work or service related unusual incident that results in the death, accident or injury resulting in hospitalization, or alleged commission of a felony involving any child welfare agency employee,

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foster parent, day care provider, or relative caregiver. A verbal report shall be made within 24 hours after the occurrence and shall be confirmed in writing within two business days after the occurrence.

- h) Complete Copy of the Licensing File
Upon request, the agency shall provide the Department's licensing unit, within 5 calendar days, a complete copy of the licensing file for a foster home or day care home that is supervised by the agency.

(Source: Amended at 37 Ill. Reg. 19115, effective November 30, 2013)

Section 401.260 Required Record Keeping

- a) The child welfare agency shall maintain current records that shall be available for inspection by authorized persons from the Department and that shall include:
 - 1) records of board membership and minutes of board meetings, as required by Section 401.210;
 - 2) financial records, as required by Section 401.230;
 - 3) personnel records, as required by Section 401.380;
 - 4) children's case records, as required by Section 401.420; and
 - 5) licensing records for foster family and day care homes supervised by the agency, as required by Section 401.460.
- b) Records shall be kept in safe, locked places within the State of Illinois. Access to records shall be limited to authorized persons only.
- c) Department licensing workers shall have access to all records and reports pertaining to day care, foster care, relative care, adoption, independent living and residential care programs for minors operated by or supervised by the child welfare agency, even if the Department is not legally responsible for the children involved in those programs. All persons who have access to the records and reports shall respect their confidential nature.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

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Section 401.270 **Records Retention**

- a) General and financial records required of the child welfare agency shall be maintained for at least 5 years.
- b) Personnel records shall be retained for at least 5 years after termination of the person's employment.
- c) Licensing Records
 - 1) The child welfare agency shall maintain in its office the licensing records of the foster family or day care home license for 4 years after any one of the following occurrences:
 - A) The license has expired and has not been renewed;
 - B) The official denial or withdrawal of the application for the license or permit;
 - C) The date of closure or revocation of the license or permit.
 - 2) After the 4 years, the agency shall transfer the licensing record to the Department, which shall keep it for 5 additional years.
- d) If any litigation, claim, financial management review, or audit is started before the expiration of the 5-year period, the records shall be retained for at least 3 years after all litigation, claims or audit findings involving the records have been resolved and final action taken. (See 45 CFR 74.53.)
- e) At the date of file closing, adoption case records and child welfare case records shall be retained permanently on paper or microfilm in a Department storage facility, and during the time period that the case is active, a hard copy of all electronic records shall be made on a ten year cycle.
- f) When an agency license is revoked, the Department refuses to renew the license, or for any other reason the agency ceases operations, the child welfare agency shall provide the Department with the original or a complete copy of all child case records and licensing records for the children and families it has served and for the foster family and day care homes that had been under its supervision.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

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SUBPART D: PERSONNEL REQUIREMENTS

Section 401.300 The Executive Director

- a) The child welfare agency shall hire an executive director who shall be a full-time employee designated by the governing body to carry out the day-to-day management of the child welfare agency and the policies and procedures established by the governing body who is available to the Department upon request. The requirements of this Section apply to the person who reports to the board about the day to day management of the agency, regardless of the title used to describe the position within the agency. When the child welfare agency operates within a larger, multi-service agency, the executive director responsible for the child welfare agency need not be the chief executive officer for the multi-service agency.
- b) The executive director shall have:
 - 1) a Master's of Social Work degree from an accredited school of social work and three years' work experience in social work administration; or
 - 2) a Master's degree in a human services field from an accredited school and five years work experience in human services administration; or
 - 3) a Master's degree in Business Administration or Health Administration and 5 years experience in administration. Such degrees are acceptable only if the executive director never functions as the child welfare supervisor and the child welfare supervisor has a Master's of Social Work degree from an accredited school of social work or a Master's degree in a human services field from an accredited school.
- c) If the executive director also serves as the child welfare supervisor, the executive director also must meet the qualifications in Section 401.310 for the child welfare supervisor.
- d) All persons serving as executive director as of May 26, 1998 who were qualified as the administrator under former Section 401.11 of this Part (The Administrator) and who have served in that capacity for a minimum of 5 years immediately preceding July 1, 1998 shall continue to be deemed qualified for their positions as executive director for the child welfare agency where they are employed as of July 1, 1998.
- e) A qualified supervisor or manager shall be appointed to act on behalf of the executive director when the executive director is absent and cannot be reached in the event of an emergency.

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- f) If the executive director is to be on leave for more than one month or has left his or her position prior to the hiring of a replacement, the Department shall be notified within five business days of the name of the person appointed as acting executive director. The acting executive director shall have the qualifications required of an executive director as specified in this Section.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

Section 401.310 Child Welfare Supervisors

Child welfare supervisors shall have a Master's of Social Work degree from an accredited school of social work or an equivalent Master's degree in a human services field from an accredited school and two years of full-time supervised experience in a social work setting. (See Section 401. Appendix G for the list of degrees which are accepted as human service degrees.) Child welfare supervisors who were employed as a child welfare supervisor as of July 1, 1997, who have a Master's degree and child welfare experience equivalent to the requirements of this Section, continue to be qualified as a child welfare supervisor for the child welfare agency where they are employed as of May 26, 1998.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

Section 401.320 Child Welfare Workers

Child welfare workers perform administrative duties, supervise placement of children, evaluate goals for placement, prepare progress reports, provide services to family members, arrange and supervise visits between children in placement and their family members and siblings, recommend discharge or placement of children, and keep required records. Child welfare workers shall have at least a Bachelor's Degree from an accredited school and shall be under the supervision of a qualified child welfare supervisor.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

Section 401.330 Licensing Staff

Child welfare agencies may have staff who are trained and authorized to perform the licensing function as part of their duties as a child welfare worker or may designate licensing as a separate function as long as the staff meet the minimum qualifications to serve as a child welfare worker. Regardless of whether licensing is performed by child welfare workers or by separate licensing workers, each staff member who studies foster family homes, adoptive homes, or day care homes must meet the requirements for a child welfare worker in Section 401.320 and must be tested by the Department and determined to be qualified to examine each type of facility for licensure before performing any licensing duties. Evidence of successful completion of the licensing examination shall be maintained in the employee's personnel file.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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Section 401.340 Professional Staff

Professional staff such as social workers, clinical social workers, psychologists, psychiatrists, physicians, dentists, teachers, occupational therapists, physical therapists, marriage and family therapists, and professional counselors must provide, prior to rendering service to the agency as an employee or independent contractor, a copy of their currently valid license for the child welfare agency's records. This applies to all full time, part time, and contractual staff or consultants which provide services to children through the auspices of the child welfare agency. The child welfare agency shall verify with the Department of Professional Regulation or other licensing entity that the license is a valid professional license. Appendix H of this Part lists the professionals who are required to be licensed or registered and the statutory citation for that requirement.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

Section 401.350 Support Personnel

Clerical and secretarial services shall be provided to maintain correspondence, records, bookkeeping and files in current and good order. Janitorial and maintenance staff or services shall be provided to keep the building and grounds in proper order.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

Section 401.360 Use of Volunteer Services

- a) Volunteers may be used in any position for which they are qualified in child care facilities supervised by the child welfare agency. Volunteers may not be used within the child welfare agency to fill the positions of executive director, child welfare supervisor, child welfare worker, or licensing worker. If volunteers are used as replacement or supplemental staff, as defined in Section 401.40 (Definitions) as support personnel or in other positions not specifically prohibited by this Section, the volunteer shall comply with the background check requirements of 89 Ill. Adm. Code 385 (Background Checks) and becomes mandated to report suspected child abuse or neglect upon acceptance of the volunteer position.
- b) Volunteers used to transport children must comply with the requirements of Section 401.450 (Transportation).
- c) Records shall be maintained on all volunteers who are used as replacement or supplemental staff. Such records shall contain the volunteer's name, address, phone number, and verification of the volunteer's qualifications for the assigned duties. In addition, any acknowledgments or certification required to verify compliance with the requirements of this Part shall be included in the volunteer file.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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Section 401.370 Non-Discrimination Against Employees Who Report Suspected Licensing Violations

No employer shall discharge, demote, or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who:

- a) makes any good faith oral or written complaint of any employer's violation of any licensing or other laws which may result in closure of the facility pursuant to Section 11.2 of the Child Care Act of 1969 [225 ILCS 10/11.2]; or*
- b) institutes or causes to be instituted against any employer any proceeding concerning the violation of any licensing or other laws, including a proceeding to revoke or refuse to renew a license; or*
- c) is or will be a witness or testify in any proceeding concerning the violation of any licensing or other laws, including a proceeding to revoke or refuse to renew a license; or*
- d) refuses to perform work in violation of a licensing regulation or other law or regulation after notifying the employer of the violation. [225 ILCS 10/7.2]*

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

Section 401.380 Personnel Records

- a) The child welfare agency shall maintain personnel records on all employees of the agency, whether full-time or part-time. These records shall contain:
 - 1) a copy of the form required to be sent to the Department of Children and Family Services which contains information on persons employed by a child welfare agency;
 - 2) a certified transcript of the employee's educational achievements, when required for the individual's position. Foreign credentials require additional documentation providing a certified translation and statement of the equivalency in the U.S. educational system;
 - 3) verification the employee holds a valid professional license (if required by law);
 - 4) acknowledgment on a form prescribed by the Department of the employee's status as a mandated reporter of child abuse and neglect by virtue of his or her employment;
 - 5) verification of the employee's work history prior to hire and residence for

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the past three years. When the employee's work experience is considered part of the individual's qualifications for his or her current position, the child welfare agency must verify the employee's stated work history;

- 6) if the employee or his or her supervisor examines foster family homes or day care homes for licensure, verification that the employee and supervisor has passed the licensing examination for all types of facilities the employee examines or supervises;
 - 7) if the employee transports children, proof of insurance and a valid driver's license and the certification required by Section 401.450(c); and
 - 8) a copy of each employee's annual evaluation and any progressive discipline provided to an employee. Such records of progressive discipline shall be maintained in accordance with the personnel policies approved by the governing body.
- b) Authorizations for and the results of a background check, as required by 89 Ill. Adm. Code 385 (Background Checks), shall be maintained in a separate and confidential file which may be accessed only by authorized child welfare agency and Department staff.

(Source: Amended at 37 Ill. Reg. 19115, effective November 30, 2013)

SUBPART E: SERVICES TO CHILDREN

Section 401.400 Legal Safeguards of Children Served

- a) The agency shall have written verification of the legal status for all children accepted for care and service. There shall be written financial agreements between the child welfare agency, foster family parents, and the legal guardian, court, or another agency, as applicable and appropriate for the care of the child and the management of any monies or benefits received on the child's behalf.
- b) The agency holding a child's funds shall have procedures for ensuring the safety of those funds. Amounts of \$300 and over shall be deposited in an insured account. Reports on the status of each child's insured account shall be given to the child's caseworker annually.
- c) Personal financial transactions or transfer of a child's or youth's personal property among children or youth, children or youth and staff, and children or youth and volunteers/interns shall be prohibited. This prohibition does not apply to the common practice in families and foster families of transferring outgrown clothes or equipment.

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- d) The agency shall assure that a child's valuables brought to a placement and acquired by or given to the child, such as clothing, books, toys, gifts, private collections, photographs, child's private savings, allowances and other items, accompany the placement and are returned to the child when the child leaves that placement.

(Source: Amended at 28 Ill. Reg. 10588, effective August 1, 2004)

Section 401.410 Required Written Consents

- a) The agency shall secure specific, dated, time-limited, written consents from the child's parent, guardian, or other legal custodian before approving certain actions which may include but are not limited to:
 - 1) health care and treatment, including medical, surgical, psychiatric, and dental care and treatment, except under emergency circumstances when such consents are not required by the Consent by Minors to Medical Procedures Act [410 ILCS 210];
 - 2) administration of psychotropic medications;
 - 3) religious instruction and/or church attendance in a different faith;
 - 4) work programs, enlistment in the armed services, and car ownership;
 - 5) visits, trips, or excursions which last more than 72 hours or which involve out-of-state travel;
 - 6) use of photographs for publicity or other purposes;
 - 7) consent to marriage for children under age 18;
 - 8) participation in research projects, especially those which involve wards of the State of Illinois; and
 - 9) consent to attend school in another district.
- b) Any written or verbal consent or authorization which conflicts with the requirements of this Part is invalid.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

Section 401.420 Agency Responsibility

- a) Each child served by the agency shall, at all times, have a designated child welfare worker assigned or, for a period of time not to exceed 30 days, the case may be assigned to a child welfare supervisor.

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- b) Children in placement shall be seen by the child welfare worker assigned to the case at least once every month. Foster parents shall be seen by the child welfare worker at least monthly.
- c) Except as otherwise noted in 89 Ill. Adm. Code 402.7(i), each licensed facility supervised by the child welfare agency shall be visited by the licensing worker of the agency at least semi-annually to insure that the standards for licensing continue to be met.
- d) Critical decisions regarding a child, such as accepting for placement, subsequent placements, determination of or changes in the service plan, and discharge from care, shall be reviewed by the child welfare supervisor prior to implementation and when needed. These critical decisions shall result in a revised service plan.
- e) A comprehensive written admission study shall be completed within 30 days after admission and shall include:
 - 1) child's name, birth date, place of birth, sex, race, religious affiliation, primary language, legal status including the legal status of the parents, and present address;
 - 2) names, birth dates, places of birth, marital status, sex, race, religious affiliation, primary language, addresses, and telephone numbers of the child's biological and adoptive parents;
 - 3) date and facility of placement and information concerning any special care or treatment provided to the child and his or her family; and
 - 4) reasons for, and the goal of, placement.
- f) The child and/or his or her parent or guardian shall be active participants, to the extent possible, in all decisions regarding the reasons for, and the goal of placement, the child's educational plan, and the service agreement.
- g) Child welfare agencies that license or supervise foster family homes shall comply with the Foster Parent Law [20 ILCS 520].
- h) Records for each child placed in a licensed or license exempt child care facility or independent living program shall include an admission study, legal documents and agreements for care, as required, and case recording that reflects the on-going placement supervision, service planning, care and treatment of the child.
- i) When a child is discharged from the agency's care, records shall include the reason for discharge, the legal status of the child, the name and address of the agency or person to whom the child is discharged, family reunification or aftercare services to be provided to stabilize the family, and any recommendation for the child's future care.

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- j) The agency shall provide an environment of safety and well being for children in care.
 - 1) Staff shall not abuse or neglect children and shall provide a safe environment at all times.
 - 2) No child shall be subjected to corporal punishment, verbal abuse, threats or derogatory remarks about the child or the child's family.

(Source: Amended at 36 Ill. Reg. 5127, effective January 15, 2012)

Section 401.430 Interstate Placement of Children

- a) An agency placing children outside the State of Illinois or receiving children from outside the State shall adhere to all rules and regulations of legal authorities pertaining to such placements and to the requirements of the Interstate Compact on the Placement of Children Act [45 ILCS 15], where applicable, and Department rules, 89 Ill. Adm. Code 328 (Interstate Placement of Children). When the Department of Children and Family Services is legally responsible for the children to be placed outside of the State of Illinois, consents from the guardian or his or her authorized agent must be obtained before this placement may occur.
- b) *Out-of-state private placing agencies that seek to place children into Illinois for the purpose of foster care or adoption shall provide all of the following to the Department, and the Department shall maintain the information in an Interstate Compact on the Placement of Children Out-of-State Adoption Agency File, also known as ICPC Out-of-State Adoption Agency File. Information and documentation maintained in the File will be considered current for a period of 2 years. The ICPC Out of State Adoption Agency File shall include:*
 - 1) *A copy of the agency's current license or other form of authorization from the approving authority in the agency's state. If no license or authorization is issued, the agency must provide a reference statement from the approving authority stating the agency is authorized to place children in foster care or adoption or both in the jurisdiction.*
 - 2) *A description of the agency's adoption programs, including home studies, placements, and supervisions that the child placing agency conducts within its geographical area, and, if applicable, adoptive placements and the finalization of adoptions. The child placing agency must accept continued responsibility for placement planning and replacement if the placement fails.*
 - 3) *Notification to the Department of any significant child placing agency changes after ICPC approval.*
 - 4) *Any other information the Department may require.*

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- c) *If the adoption is finalized prior to bringing or sending the child to Illinois, Department approval of the out-of-state child placing agency involved is not required under this Section, nor is compliance with the Interstate Compact on the Placement of Children. [750 ILCS 50/4.1(a-5)]*

(Source: Amended at 30 Ill. Reg., effective February 27, 2006)

Section 401.440 Health and Medical Services for Children

- a) The agency shall have written policies providing for medical, surgical, and dental care for children in placement. Such policies shall be formulated in consultation with physicians and dentists licensed to practice in the State of Illinois.
- b) Medical records on each child shall be maintained, including medical history, parental or guardian consent for medical treatment, report of admission examination, all subsequent examinations, diagnoses, illnesses, immunizations, treatment, and discharge examination.
- c) A complete medical history shall include:
- 1) current problems, medications and handicaps, past health conditions such as diseases, allergies and surgeries, immunizations and dates, and report of most recent physical examinations; and
 - 2) all available information pertaining to the health history of the child's family.
- d) Children shall be examined annually or more frequently if findings and medical opinion indicate a need. Diagnosed medical problems shall be treated promptly.
- e) Dental examinations shall be given at least annually. Diagnosed dental defects shall receive prompt treatment.
- f) Immunizations and tests shall be administered as required by the Illinois Department of Public Health rules (Immunization Code: 77 Illinois Administrative Code 695) or as recommended by the child's physician.
- g) Immunizations must be waived or modified for a child who, for medical reasons, should not be subject to an immunization or when there is a waiver on religious grounds.
- h) If treatment for any physical impairment which requires continuing or follow-up medical attention is needed, the parent, guardian or other facility shall be notified in writing.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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Section 401.450 **Transportation of Children**

- a) These requirements apply to any child welfare agency that provides or arranges for the transportation of children to or from their home, whether a permanent home or a foster family home, to other prearranged sites, e.g., to another placement, for visits with family members, to a physician or to another professional.
- b) The child welfare agency must insure that all persons who transport children on behalf of the agency hold a valid driver's license and have insurance, as required by the Illinois Vehicle Code [625 ILCS 5]. (Persons with a special driving permit are not considered to have a valid driver's license.)
- c) The child welfare agency shall ask all drivers to answer the following questions in writing and shall include the response to these questions in their personnel files. Persons who answer "yes" to either of the questions in subsection (c)(1), (2) or (3) shall not be permitted to transport children.
 - 1) Has your driver's license been revoked or suspended within the past 3 years?
 - 2) Have you been convicted of driving under the influence, manslaughter, or reckless homicide in the past 3 years?
 - 3) Have you caused an accident that resulted in the death of any person within the past 5 years? (See 225 ILCS 10/5.1(a).)
- d) The child welfare agency shall adopt emergency procedures to be followed in the event of an accident, serious illness, or severe weather. Copies of these procedures and other pertinent information shall be provided to all persons driving on behalf of the child welfare agency.
- e) Age-appropriate safety restraints that are federally approved and labeled as such shall be used at all times when transporting children in vehicles having a gross weight of less than 10,000 pounds, except that individual safety restraints are not required when children ride as passengers in taxicabs or common carriers or public utilities.
- f) No more than one child may be in each seat belt or safety restraint.

(Source: Amended at 30 Ill. Reg., effective February 27, 2006)

Section 401.460 **Agency Supervised Foster Family Homes, Group Homes and Day Care Homes**

- a) Foster family and day care homes operated and supervised by a child welfare agency shall be licensed according to the standards prescribed and published by the Department for licensing foster family and day care homes.

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- b) The child welfare agency shall submit an application for a license on forms provided by the Department for each foster family home and day care home supervised by it. The child welfare agency shall recommend the licensure of or denial of license of family homes supervised by the child welfare agency. The child welfare agency shall make these recommendations to the Department in accordance with 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) and 89 Ill. Adm. 406 (Licensing Standards for Day Care Homes).
- c) When an individual submits an initial application for a foster family home license and the applicant was previously licensed as a foster family home, the child welfare agency shall review and assess all previous licensing history before making a recommendation to issue or deny a license on the current application. The child welfare agency shall share a complete copy of the previous licensing file and any licensing complaint file with an agency reviewing an application for license.
- d) The child welfare agency shall maintain licensing records on all foster family and day care homes under its licensing supervision. The child welfare agency shall insure that facilities operating under its supervision maintain all the records required by the appropriate licensing standards for the facility.
- e) The child welfare agency supervising a group home licensed by the Department shall be responsible for ensuring the facility operates in accordance with the applicable licensing standards prescribed by the Department. When the child welfare agency intends to supervise a group home, the child welfare agency shall forward the group home license application and necessary documentation to the Department. Department's licensing staff shall conduct a license study and determine whether the group home is in compliance with 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes).
- f) A child welfare agency shall obtain approval in writing from the Department before transferring supervision of a child or family case to another agency.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

Section 401.470 Agency Responsibilities for Adoption Services (Renumbered)

(Source: Section 401.470 renumbered to Section 401.500 at 30 Ill. Reg., effective February 27, 2006)

Section 401.480 Agency Responsibilities for Independent Living Programs (Renumbered)

(Source: Section 401.480 renumbered to Section 401.700 at 30 Ill. Reg., effective February 27, 2006)

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SUBPART F: AGENCY RESPONSIBILITIES FOR ADOPTION SERVICES

Section 401.500 Child Welfare Agency Responsibilities for Adoption Services

Child welfare agencies that provide adoption services shall, in addition to meeting all requirements for a child welfare agency described in this Part, assure that placements of children for adoption are made in the best interests of the children and are selected to meet the needs of the child at the time of the placement and as the child grows and develops. In addition adoption agencies shall:

- a) Establish written guidelines and eligibility criteria for the selection and evaluation of adoptive home applicants;
- b) Provide pre-placement services that include the assessment and preparation of the potential adoptive family as well as of the child in need of an adoptive home;
- c) Ensure that the legal rights of all parties, including the birth parents, the child, and the adoptive parent, are protected throughout the adoption process;
- d) Comply with all State and federal laws and the requirements of 89 Ill. Adm. Code 333 (Inter-country Adoption Services) when the adoptive placement involves a child from a foreign country;
- e) Prohibit discrimination against any child, birth parent, foster parent or prospective adoptive parent on the basis of race, religion, gender, or ethnicity.

(Source: Section 401.500 renumbered from Section 401.470 and amended at 30 Ill. Reg., effective February 27, 2006)

Section 401.510 Disclosures

- a) Information disclosed in accordance with this Subpart shall be subject to the confidentiality requirements of the Child Care Act of 1969 and the Adoption Act.
- b) *A child welfare agency providing adoption services shall provide to all prospective clients, including biological parents and adoptive parents, and to the public, the following written disclosures, which shall be posted on the agency's website when there is one:*
 - 1) *Adoption services provided;*
 - 2) *Policy and practices;*
 - 3) *General eligibility criteria;*
 - 4) *A general description of fees; and*

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- 5) *The mutual rights and responsibilities of clients, including biological parents and adoptive parents.*
- c) *Agencies providing adoption services shall provide to all potential clients prior to application a written schedule of:*
 - 1) Estimated fees, charges and costs the family will incur in the adoption process; and
 - 2) *Refund policies.*
- d) *These written policies shall be part of the standard adoption contract unless additional fees are reasonably required by the circumstances and are disclosed to the adoptive parents or parent before they are incurred. [225 ILCS 10/7.4(b)]*
- e) *An eligible adoption agency, accredited by the Council on Accreditation (COA), may be deemed compliant with subsections (b), (c) and (d) of this Section. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency. [225 ILCS 10/2.27 and 7.4(b)]*
- f) *Every agency providing adoption services shall make full and fair disclosure to its clients, including biological parents and adoptive parents, of all circumstances material to the placement of a child for adoption. [225 ILCS 10/7.4(c)]*
- g) Contents of the written disclosure policy shall include:
 - 1) Biological parents' rights and responsibilities.
 - A) Agencies and other resources that are serving biological parents who are making an adoption plan shall provide the biological parents, in their preferred language, with a written explanation of their rights and responsibilities.
 - B) The biological parents' rights and responsibilities document shall be prepared by the Department and shall be part of the standard forms that adoption agency staff review with the biological parents before the biological parents sign them.
 - C) A signed and witnessed copy of the biological parents' rights and responsibilities document shall be kept and maintained in the agency file, and another given to the biological parents.

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- 2) Information that is shared with the biological parents shall include when known:
 - A) Age of the adoptive parents;
 - B) The race, religion, and ethnic background of the adoptive parents;
 - C) The general physical appearance of the adoptive parents;
 - D) The education, occupation, hobbies, interests and talents of the adoptive parents;
 - E) The existence of any other children born to or adopted by the adoptive parents;
 - F) Any information that the adoptive family wishes to include in its Dear Birth Parent letter (which some agencies use).

- 3) Adoptive parents' rights and responsibilities shall include:
 - A) Agencies and other resources that are serving adoptive parents shall provide the adoptive parents with a written explanation of their rights and responsibilities.
 - B) The adoptive parents' rights and responsibilities document shall be prepared by the Department and shall be part of the standard forms that adoption agency staff review with the adoptive parents before the adoptive parents sign them.
 - C) A signed and witnessed copy of the adoptive parents' rights and responsibilities shall be kept in the agency files and another given to the adoptive parents.
 - D) Adoption agencies shall provide the adoptive family with all non-identifying information about the child that has been verified as accurate, whenever possible. If it is not possible to verify the accuracy of the information provided to the adoptive parents, the agency may provide the information to the adoptive family, but shall note that the information has not been verified.
 - E) Notwithstanding any other provision of this Part to the contrary, the medical and mental health histories of a child legally freed for adoption and of the birth parents, with information identifying the birth parents redacted, shall be provided by an agency to the child's prospective adoptive parent and shall be provided upon request from an adoptive parent when a child has been adopted. The medical and mental health histories shall include all of the following available information.

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- i) Conditions or diseases believed to be hereditary;
 - ii) Drugs or medications taken by the child's mother during pregnancy;
 - iii) Psychological and psychiatric information; and
 - iv) Any other information that may be a factor influencing the child's present or future health.
- 4) The agency shall provide, in writing, the following non-identifying information, if known to the adoptive parents, not later than the day of placement with the petitioning adoptive parents:
 - A) The age of biological parents;
 - B) The race, religion, and ethnic background of the biological parents;
 - C) The general physical appearance of biological parents;
 - D) The education, occupation, hobbies, interests and talents of the biological parents;
 - E) The existence of any other children born to the biological parents;
 - F) Information about biological grandparents, reason for emigrating into the United States, if applicable, and country of origin;
 - G) The relationship between biological parents;
 - H) Detailed medical and mental health histories of the child, biological parents, and their immediate relatives; and
 - I) The actual date and place of birth of the adopted person.
- 5) No information provided under this subsection (g) shall disclose the name or last known address of biological parents, grandparents, siblings of the biological parents, adopted person, or any other relative of the adopted person.
- 6) The adoptive family shall also be informed about the Illinois Adoption Registry.
- 7) The adoptive family shall also be informed of the results of their home study and post-adoption reports.

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- h) Minimum standards for witnessing Final and Irrevocable Surrenders for Purpose of Adoption shall include:
 - 1) Child welfare agencies witnessing biological parents' surrender of parental rights shall require the biological parents to participate in at least one counseling session in person.
 - A) The counseling session shall take place at least 24 hours before the signing of the documents. If this is not possible, the agency shall document the reason in the biological parent's file.
 - B) The counseling session should include both biological parents when possible. If one biological parent does not attend the session, his or her absence shall be noted in the agency file.
 - C) The agency shall review the key issues regarding surrenders with the biological parents prior to taking the surrender.
 - 2) A counseling session summary shall be included in every biological parent's file.
 - 3) The counseling session must be conducted by a counselor with a minimum of a Bachelor's degree who has knowledge of the issues relevant to the surrendering of one's parental rights. The counselor may be an authorized representative of an adoption agency, either employed by or contracted by the agency, who does counseling or a counselor not associated with an agency, such as a licensed social worker, licensed counselor or other mental health professional.
- i) Information to be Shared with an Adoptive Foster Parent
 - 1) A licensed child welfare agency placing a child in a licensed foster family home for adoption shall provide the prospective adoptive parent with:
 - A) Available detailed information concerning the child's educational and health history, copies of immunization records (including insurance and medical card information), a history of the child's previous placements, if any, and reasons for placement changes, excluding any information that identifies or reveals the location of any previous caretaker.
 - B) A copy of the child's portion of the client service plan, including any visitation arrangement, and all amendments or revisions to it related to the child.

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- C) Information containing details of the child's individualized educational plan when the child is receiving special education services.
 - D) Any known social or behavioral information (including, but not limited to, criminal background, fire setting, perpetration of sexual abuse, destructive behavior and substance abuse) necessary to care for and safeguard the child.
- 2) The agency may prepare a written summary of the information required by this subsection (i) that may be provided to the foster or prospective adoptive parent in advance of a placement. The foster or prospective adoptive parent may review the supporting documents in the child's file in the presence of casework staff. In the case of an emergency placement, casework staff shall at least provide information verbally and must subsequently provide the information in writing, as required, within 10 days. In the case of emergency placements, when time does not allow prior review, preparation and collection of written information, the agency shall provide that information in writing as it becomes available.
 - 3) An adoption agency receiving a request from a confidential intermediary for the full name, date of birth, last known address, or last known telephone number of a sought-after relative pursuant to Section 18.3(g) of the Adoption Act [750 ILCS 50/18.3(g)], or for medical information on behalf of the adopted or surrendered person who would like the information about himself or herself, must satisfactorily comply with this request within a period of 45 days. Agencies are subject to significant civil financial penalties if compliance is not timely.
 - 4) Following the issuance of a court order finding that the adoption agency has not complied with Section 18.3 of the Adoption Act, the adoption agency may be subject to a monetary penalty for each subsequent day of non-compliance. Any reimbursements and fines, notwithstanding any reimbursement directly to the petitioner, paid under this subsection (i)(7) are in addition to other remedies a court may otherwise impose by law. Proceeds from the penalties paid to the Department of Children and Family Services shall be deposited into the DCFS Children's Services Fund. The Department of Children and Family Services shall submit reports to the Confidential Intermediary Advisory Council by July 1 and January 1 of each year in order to report the penalties assessed and collected under this subsection (i)(7), the amounts of related deposits into the DCFS Children's Services Fund, and any expenditures from those deposits.

(Source: Amended at 36 Ill. Reg. 2157, effective January 30, 2012)

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Section 401.520 **Adoptive Parents Training**

- a) Agencies providing adoption services shall provide prospective adoptive parents with a training program that shall include:
 - 1) A minimum of 6 clock hours of training for private domestic adoption families and a minimum of 10 clock hours of training for international adoptions; at least 4 of the 10 hours shall be in person (see 22 CFR 96.48(a));
 - 2) Counseling and guidance for promoting a successful adoption in conjunction with the placement of a child for adoption with the prospective parents;
 - 3) Additional training of the adoptive parent, as necessary, to meet the needs of the adoptive family or child prior to the adoption.
- b) The adoptive parent training may be provided by an agent or independent contractor of the child welfare agency, provided the curriculum has the prior written approval of the Department's Office of Training.
- c) All agencies shall keep on file a written record of the nature and extent of the training provided to the adoptive parents.
- d) *An eligible adoption agency may be deemed compliant with this Section. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency. [225 ILCS 10/2.27 and 7.5]*

(Source: Amended at 37 Ill. Reg. 19115, effective November 30, 2013)

Section 401.530 **Annual Reports**

- a) On the 45th day of an adoption agency's license anniversary date, *an agency providing adoption services shall file an annual report with the Department's regional licensing office and with the Illinois Attorney General on forms prescribed by the Department, consisting of the following:*
 - 1) *A balance sheet and a statement of income and expenses for the year;*
 - 2) *Non-identifying information concerning the adoptive placements made by the agency during the year, consisting of:*
 - A) *The number of adoptive families in the process of obtaining a foster family license;*

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- B) *The number of adoptive families that are licensed and awaiting placement;*
 - C) *The number of biological parents with which the agency is actively working;*
 - D) *The number of children placed in adoptive homes; and*
 - E) *The number of adoptions initiated during the year and the status of each matter at the end of the year;*
- 3) *Any instance during the year in which the agency lost the right to provide adoption services in any state or country, had its license suspended for cause, or was the subject of other sanctions by any court, governmental agency, or governmental regulatory body relating to the provision of adoption services;*
 - 4) *Any actions related to licensure that were initiated against the agency during the year by a licensing or accrediting body;*
 - 5) *Any pending investigations by federal or State authorities;*
 - 6) *Any criminal charges, child abuse charges, malpractice complaints, or lawsuits against the agency or any of its employees, officers, or directors related to the provision of adoption services and the basis or disposition of the actions;*
 - 7) *Any instance in the year where the agency was found guilty of, liable for, or pled guilty to, any criminal or civil or administrative violation under federal, State, or foreign law that relates to the provision of adoption services;*
 - 8) *Any instance in the year where any employee, officer, or director of the agency was found guilty of any crime or was determined to have violated a civil law or administrative rule under federal, State, or foreign law relating to the provision of adoption services;*
 - 9) *Any civil or administrative proceeding instituted by the agency during the year and relating to adoption services, excluding uncontested adoption proceedings and proceedings filed pursuant to Section 12a of the Adoption Act; [225 ILCS 10/7.6]*
 - 10) *Description of fees, wages, salaries and other compensations described in Section 401.565(a) of this Part.*

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- b) *Failure to disclose information required under this Section may result in the suspension of the agency's license for a period of 90 days. Subsequent violations may result in revocation of the license. [225 ILCS 10/7.6]*
- c) Each licensed child welfare agency providing adoption services that maintains a website shall provide the agency's annual reports on its website.
- d) The child welfare agency's annual report for the preceding 2 years shall be made available by the Department to the public, upon request, and shall be included on the website of the Department.
- e) *Information disclosed in accordance with this Section shall be subject to the applicable confidentiality requirements of the Child Care Act and the Adoption Act. [225 ILCS 10/7.6]*

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

Section 401.540 Preferential Treatment in Child Placement

- a) Preferential treatment in child placement or any matters relating to adoption services by an agency shall not be given to its board members, contributors, volunteers, employees, agents, consultants, or independent contractors or to the relatives of these persons. Relatives, as used in this Part, are those persons related by blood or adoption, including parents, grandparents, siblings, great-grandparents, uncles, aunts, nieces, nephews, first cousins, great aunts or great uncles, and step-parents or step-siblings. Relatives also include the spouse of these named relatives.
- b) Agencies shall include the prohibition of preferential treatment in adoption services in the written agency policy made available to all the agency's staff.
- c) *An eligible adoption agency may be deemed compliant with this Section. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency. [225 ILCS 10/2.27 and 7.8].*

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

Section 401.550 Waiver Prohibited

Agencies providing adoption services shall not require biological or adoptive parents to sign any document that purports to waive claims against an agency for intentional or reckless acts or omissions or for gross negligence. [225 ILCS 10/7.7]

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

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Section 401.560 Adoption Services Fees

- a) Excessive adoption fees by a child welfare agency, representative of an agency or independent contractor of an agency are prohibited. *An eligible adoption agency may be deemed compliant with this subsection. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency.* [225 ILCS 10/2.27 and 7.9]
- b) Adoption service fees shall be based on the costs associated with the agency's overall service and program delivery. Clients may be charged fees only for services provided.
- c) Payments to Biological Parents
 - 1) Adoption agency payments to biological parents of reasonable living expenses by a child welfare agency shall not obligate the biological parents to place the child for adoption. In the event that the biological parents choose not to place the child for adoption, the child welfare agency shall have no right to seek reimbursement from the biological parents, or from any relative of the biological parents, of moneys paid to, or on behalf of, the biological parents, except as provided in subsection (c)(2) of this Section.
 - 2) A child welfare agency may seek reimbursement of reasonable living expenses from a person who receives such payments only if the person who accepts payment of reasonable living expenses before the child's birth, as described in subsection (c)(1), knows that the person on whose behalf he or she is accepting payment is not pregnant at the time of the receipt of the payments or the person receives reimbursement for reasonable living expenses simultaneously from more than one child welfare agency without the agencies' knowledge. [225 ILCS 10/14.7]
 - 3) An adoption agency shall maintain on file records of all payments made to biological parents or on behalf of biological parents.

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

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Section 401.565 Adoption Agency Payment of Salaries or Other Compensation

- a) *A licensed child welfare agency may pay salaries or other compensation to its officers, employees, agents, contractors, or any other persons acting on its behalf for providing adoption services, provided that all of the following limitations apply:*
- 1) *The fees, wages, salaries, or other compensation of any description paid to the officers, employees, contractors, or any other person acting on behalf of a child welfare agency providing adoption services shall not be unreasonably high in relation to the services actually rendered. Every form of compensation shall be taken into account in determining whether fees, wages, salaries, or compensation are unreasonably high, including, but not limited to, salary, bonuses, deferred and non-cash compensation, retirement funds, medical and liability insurance, loans, and other benefits such as the use, purchase, or lease of vehicles, expense accounts, and food, housing, and clothing allowances;*
 - 2) *Any earnings, if applicable, or compensation paid to the child welfare agency's directors, stockholders, or members of its governing body shall not be unreasonably high in relation to the services rendered; and*
 - 3) *Persons providing adoption services for a child welfare agency may be compensated only for services actually rendered and only on a fee-for-service, hourly wage, or salary basis.*
- b) *The Department shall take into account the location, number, and qualifications of staff, workload requirements, budget, and size of the agency or person, and available norms for compensation within the adoption community.*
- c) *Every licensed child welfare agency providing adoption services shall provide the Department and the Attorney General with a report, on an annual basis, providing a description of the fees, wages, salaries and other compensation described in subsection (a) of this Section.*
- d) *Nothing in the Adoption Compensation Prohibition Act [720 ILCS 525] shall be construed to prevent a child welfare agency from charging fees or the payment of salaries and compensation as limited in this Section and any applicable Sections of this Part, the Child Care Act or the Adoption Act.*
- e) *This Section does not apply to international adoption services performed by those child welfare agencies governed by the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and the Intercountry Adoption Act of 2000 (42 USC 14901 et seq.).*

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- f) *An eligible adoption agency may be deemed compliant with this Section. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency. [225 ILCS 10/2.27 and 14.6]*

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

Section 401.570 Independent Contractors

- a) Subject to subsection (a)(1), a child welfare agency providing adoption services may use the services of any person, group of persons, agency, association, organization, corporation, institution, center, or group as an independent adoption contractor to perform services on behalf of the licensed agency.
- 1) The licensed agency must have a written agreement with the independent contractor specifying:
 - A) Terms of remuneration;
 - B) Services to be performed;
 - C) Personnel performing those services;
 - D) Qualifications of the personnel, in addition to any other information or requirements the Department may specify; and
 - E) That the contract may be terminated at any time.
 - 2) Within 30 days after entering the agreement, a copy of the written agreement shall be submitted to the Department.
- b) The independent contractor providing services on behalf of the licensed agency has an affirmative obligation to disclose its contractual relationship to all clients prior to performing any services.
- c) The licensed agency is not exempt, by reason of the use of the contractor, from compliance with all of the provisions in this Part and in the Child Care Act of 1969.
- d) The Department has the authority to disapprove, and shall do so in writing, the use of any contractor if the Department is not satisfied with the agency's agreement. The factors to be considered include, but are not limited to:
- 1) Personnel who are performing the services;
 - 2) The qualifications of the personnel; or

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- 3) If the contractor violates any provision of this Part, the Child Care Act or the Adoption Act.
- e) The Department has the authority to require the immediate termination of the contract between an agency and independent contractor.

(Source: Amended at 37 Ill. Reg. 19115, effective November 30, 2013)

Section 401.580 Cessation or Dissolution of an Adoption Agency

In the event that a licensed child welfare agency providing adoption services ceases to exist or dissolves its corporate entity as an agency, and in so doing ceases to provide adoption services as defined in Section 401.40, all records pertaining to those adoption services shall be forwarded to another licensed child welfare agency, with notice provided to the Department within 30 days after cessation or dissolution.

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

Section 401.590 Adoption Agency Information and Complaint Registry

- a) The adoption agency information and complaint registry serves to assist the public in the monitoring of licensed child welfare agencies providing adoption services. The information in the registry shall include, but is not limited to:
 - 1) Agency's 4-year history of substantiated violations and corrected violations.
 - 2) Any current enforcement actions against a child welfare agency providing adoption services.
- b) The public may access information concerning the past history and records of any licensed child welfare agency providing adoption services in the State of Illinois through the Department's adoption agency information and complaint registry's toll-free telephone number.
- c) Information provided in the adoption agency, information and complaint registry shall also be available to the public on the Department's website.
- d) Complaints regarding agencies providing adoption services may be made to the adoption agency, which shall follow the requirements of Section 401.595, or to the nearest Department licensing office. The State Central Register may take, via its toll-free number (1-800-252-2873), complaints during weekends or after regular working hours.;
- e) The Department shall investigate all complaints alleging violations of licensing standards in accordance to Part 383, Licensing Enforcement.

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- f) Complaints not related to licensing standards shall be addressed and documented by the adoption agency and its resolution shall be available for review by the Department. (See Section. 401.595 (a).)

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

Section 401.595 Agency Complaint Policy and Procedure

- a) Agencies providing adoption services shall establish written complaint policies that include:
- 1) An adoption agency shall initiate an investigation of complaints received within 2 business days;
 - 2) The adoption agency shall maintain written documentation of all complaints received by the agency;
 - 3) An adoption agency shall report the outcome of its complaint investigation, in writing, to the Department's regional licensing office or the DCFS Licensing Representative within 10 business days after complaints are received;
 - 4) Any retaliation against the person making the complaint is prohibited;
 - 5) That a member of management level staff shall be designated to accept consumer complaints; and
 - 6) Resolutions of all complaints shall be reported to the agency board of directors at its next meeting.
- b) The agency's complaint policy and procedures shall be filed with the Department's regional licensing office no later than February 15, 2006.
- c) Failure of an adoption agency to file its complaint policy and procedures with the Department by February 15, 2006 and to comply with the provisions of this Section may result in:
- 1) Suspension of the agency's license for a period of 90 days; or
 - 2) Revocation of the agency's license in the event that the agency continues to violate the requirement of subsection (b).
- d) The adoption agency's *policy and procedures shall be provided in writing to its prospective clients, including biological parents, adoptive parents, and adoptees that it has served, at the earliest time possible, and, in the case of biological and*

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adoptive parents, prior to placement or prior to entering into any written contract with the clients. [225 ILCS 10/9.1b]

- e) Receipt of a copy of the agency's policy and procedure shall be signed and dated by the client and witnessed, and a copy shall be maintained in the client's file.
- f) *Any adoption agency that maintains or establishes a website in the future shall post the prescribed complaint procedures and its license number, as well as the statewide toll-free adoption agency information and complaint registry telephone number, on its website. [225 ILCS 10/9.1b]*

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

Section 401.600 Advertisement

- a) *No person, group of persons, agency, association, organization, corporation, institution, center, or group may advertise or cause to be published any advertisement offering, soliciting, or promising to perform adoption services as defined in Section 401.40 of this Part, unless the agency is licensed or operating under a permit issued by the Department as a child care facility or child welfare agency.*
- b) *Violators of subsection (a) of this Section are guilty of a Class A misdemeanor and shall be subject to a fine not to exceed \$10,000 or 9 months imprisonment for each advertisement, unless that person, group of persons, agency, association, organization, corporation, institution, center, or group is:*
 - 1) *Licensed or operating under a permit issued by the Department as a child care facility or child welfare agency; or*
 - 2) *An exception to subsection (a) is a biological parent or a prospective adoptive parent acting on his or her own behalf, or a licensed attorney advertising his or her availability to provide legal services relating to adoption, as permitted by law.*
- c) *Every advertisement published after August 15, 2005 shall include the Department's issued license number of the facility or agency.*
- d) *Any licensed child welfare agency providing adoption services that, after August 15, 2005, causes to be published an advertisement containing reckless or intentional misrepresentations concerning adoption services or circumstances material to the placement of a child for adoption is guilty of a Class A misdemeanor and shall be subject to a fine not to exceed \$10,000 or 9 months imprisonment for each advertisement.*

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- e) *An out-of-state agency that is not licensed in Illinois and that has a written interagency agreement with one or more Illinois licensed child welfare agencies may advertise under this Section, provided that:*
- 1) *The out-of-state agency is officially recognized by the United States Internal Revenue Service as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law);*
 - 2) *The out-of-state agency provides only international adoption services and is covered by the international adoption services and the Intercountry Adoption Act of 2000 (42 USC 14901 et seq.);*
 - 3) *The out-of-state agency displays, in the advertisement, the license number of at least one of the Illinois licensed child welfare agencies with which it has a written agreement; and*
 - 4) *The advertisements pertain only to international adoption services.*
- f) *An advertiser, publisher, or broadcaster, including, but not limited to, newspapers, periodicals, telephone book publishers, outdoor advertising signs, radio stations, or television stations, who knowingly or recklessly advertises or publishes any advertisement offering, soliciting, or promising to perform adoption services on behalf of a person, group of persons, agency, association, organization, corporation, institution, center, or group, not authorized to advertise under subsection (a) or (d) of this Section, is guilty of a Class A misdemeanor and is subject to a fine not to exceed \$10,000 or 9 months imprisonment for each advertisement.*
- g) *The Department shall maintain a website listing child welfare agencies licensed by the Department that provide adoption services and other general information for biological parents and adoptive parents. The website shall include, but not be limited to:*
- 1) *Adoption agency license numbers, addresses, phone numbers, e-mail addresses and website addresses;*
 - 2) *Annual reports as referenced in Section 401.530 of this Part;*
 - 3) *The Birth Parents' Bill of Rights and the Adoptive Parents' Bill of Rights; and*
 - 4) *The Department's agency adoption and information complaint registry toll-free number. [225 ILCS 10/12]*

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

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SUBPART G: INDEPENDENT LIVING PROGRAMS

Section 401.700 Agency Responsibilities for Independent Living Programs

- a) Child welfare agencies may provide independent living services to youth;
 - 1) Who have been or who are in the out-of-home care system;
 - 2) Who are homeless or who are transitioning from residential care;
 - 3) Who are without family resources;
 - 4) Who need support and assistance coping with developmental disability, physical disability or mental illness.
- b) All agency staff who have contact with youth in independent living programs shall have passed the background checks required by 89 Ill. Adm. Code 385 (Background Checks).
- c) A child welfare worker shall be assigned to youth in independent living programs and shall meet with the youth at least monthly or otherwise as specified in the service plan.
- d) Child welfare agency staff shall work in partnership with the youth in developing a plan for independence and shall include the youth in conferences and meetings during which key decisions or changes to the youth's service plan are discussed.
- e) The child welfare agency shall ensure that youth in independent living programs are in safe and adequate housing while participating in the program and have access to adequate health care, educational services, vocational and employment services, and opportunities to acquire life skills and the development of self-esteem.

(Source: Section 401.480 renumbered to Section 401.700 and amended at 30 Ill. Reg., effective February 27, 2006)

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SUBPART H: ENFORCEMENT AND SEVERABILITY CLAUSE

Section 401.800 Referrals to Law Enforcement and Injunctive Relief

- a) Violation of the Act

If the Department has reasonable cause to believe that any person, group of persons, corporation, agency, association, organization, institution, center, or group is engaged or is about to engage in any acts or practices that constitute or will constitute a violation of the Child Care Act, the Department shall inform the Attorney General or the State's Attorney of the appropriate county, who may initiate the appropriate civil or criminal proceedings.

- b) Violation of this Part

If the Department has reasonable cause to believe that any person, group of persons, corporation, agency, association, organization, institution, center, or group is engaged or is about to engage in any act or practice that constitutes or may constitute a violation of any rule adopted under the authority of the Child Care Act, the Department may inform the Attorney General or the State's Attorney of the appropriate county, who may initiate the appropriate civil or criminal proceedings.

- c) Injunction or Restraining Order

Upon a proper showing, any circuit court may enter a permanent or preliminary injunction or temporary restraining order without bond to enforce the Child Care Act or this Part, in addition to the penalties and other remedies provided in the Act. [225 ILCS 10/11.1]

(Source: Added at 30 Ill. Reg., effective February 27, 2006)

Section 401.850 Severability of This Part

If any court of competent jurisdiction finds that any rule, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

(Source: Section 401.500 renumbered to Section 401.850 at 30 Ill. Reg., effective February 27, 2006)

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401.APPENDIX A: Licensing Progression for Child Welfare Agencies

License Status	Explanation
Permit	Issued only once prior to issuance of a provisional license for not more than six months to enable a new child welfare agency to come into reasonable compliance with licensing standards before an initial, provisional license is issued.
Provisional License	Issued for the first two years of initial licensure to allow a newly licensed facility a period of time to demonstrate the ability to operate the child welfare agency responsibly and remain in compliance with licensing standards. Allows the Department of Children and Family Services to evaluate the quality of licensing and child welfare services provided by the agency. A provisional license may also be issued when a child welfare agency reapplies for licensure after the prior license was voluntarily surrendered, revoked or the Department refused to renew the license.
Full License	Issued after a child welfare agency has completed its provisional license period when the agency is in reasonable compliance with licensing standards and has demonstrated the ability to operate the child welfare agency responsibly.
Conditional License	Issued for not more than six months to enable a child welfare agency to correct deficiencies in its operations which do not jeopardize the health, safety, morals or welfare of the children served. Any other license held by the agency is revoked when a conditional license is issued. If the facility fails to correct the deficiencies and meet all licensing standards at the end of the conditional license period, the Department shall deny full license. (See [225 ILCS 10/8.2])
Deemed Status	Programs of the child welfare agency are deemed to be in full compliance with the requirements of this Part because the program is fully accredited by the Council on Accreditation of Services for Families and Children and there have been no substantiated licensing complaints which affect the health, safety, morals, or welfare of children served by the agency during the past four years. The Department shall conduct annual monitoring visits to verify continued compliance with the requirements of this Part.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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401.APPENDIX B: Requirements for Operation of Branch Offices

A multi-site child welfare agency may operate branch offices. The headquarters of the child welfare agency may delegate authority, in accordance with the requirements of this Appendix B, to the branch offices to receive licensing applications from foster family and day care home applicants and make recommendations for licensure directly to the Department. The child welfare agency headquarters authorization of delegation of licensing authority to the branch office must be in writing, signed by the authorized representative of the governing body of the child welfare agency, and must include the following:

- the name of the administrative staff person primarily responsible for the day-to-day operation of the branch office; and
- the address, phone number and office hours for the branch office; and
- the names of the staff persons in the branch office who have passed the licensing examinations required by the Child Care Act of 1969, thus qualifying them to conduct license studies and recommend applicants for licensure, and the types of facilities which they are qualified to examine.

The written delegation of authority to operate a branch office which processes licensing applications must be filed with the Central Office of Licensing, 406 E. Monroe Street, #60, Springfield, Illinois 62701. If the child welfare agency is fully licensed in good standing and the branch office has sufficient qualified staff who have passed the licensing examinations for the types of facilities to be licensed by the branch office of the child welfare agency, the Central Office of Licensing shall approve the operation of the branch office for the recommendation of foster family and day care home licenses.

Any and all enforcement actions (orders for compliance, license revocation, conditional license, provisional license, etc.) will be handled through the child welfare agency headquarters with a copy to the branch office of the child welfare agency.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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401.APPENDIX C: Management Representations of Child Welfare Agency Financial Condition and Operations

The chief fiscal officer and an authorized representative of the governing body shall prepare responses to the following representations about the operations of the child welfare agency for the prior fiscal year and submit them to the Department within 180 days after the end of the agency's fiscal year. This response shall be on a form provided by the Department and shall be signed and dated by the chief fiscal officer and the authorized representative of the governing body. When the child welfare agency functions within a larger multi-service agency, the responses shall be limited to the operation of the child welfare agency.

- 1) The agency has a bookkeeping system that includes minimally, a chart of accounts and appropriate accounting journals.
- 2) The agency has paid its payrolls in accordance with its specified payroll schedule.
- 3) The agency has paid relative caregivers and/or foster parents in accordance with established payment schedules.
- 4) All payroll taxes or other tax liabilities have been paid on or in advance of the date required by all taxing authorities.
- 5) The agency has not defaulted on any debt.
- 6) The agency has billed funding agencies within 60 days for amounts due.
- 7) The agency has not failed to collect billings and has not had to write off billings.
- 8) The agency has adequate assets to provide for agency operations and services such as staff, taxes, rent, utilities, and supplies for a period of at least 30 days.
- 9) The agency has not loaned money to agency employees or members of the board of directors.
- 10) The agency does not have an operating deficit for the year.

(Source: Added at 24 Ill. Reg. 9340, effective July 7, 2000)

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401.APPENDIX D: Minimum Requirements for a Risk Management Plan

The risk management plan required by Section 401.220(g) shall address at least the following areas of risk with the answers sufficiently explained.

- 1) What risks are presented by the child welfare services offered or supervised by the child welfare agency? How is the agency minimizing those risks?
- 2) What risks are presented to staff and caregivers in the conduct of their duties? How is the agency minimizing those risks? Does the child welfare agency provide staff with a photo identification card?
- 3) What training is provided to staff, foster parents, relative caregivers, day care home providers, or youth in independent living arrangements to help them identify and minimize risks associated with their various duties or living arrangements? Describe all required training.
- 4) Does the agency have a plan to assure the quality of services it delivers? Describe the quality assurance plan.
- 5) Are adequate investigations into the qualifications, education, and experience of staff completed before they are hired? Describe the hiring process.
- 6) Are agency personnel sufficiently qualified to provide services to the types of children accepted for care? How do staff qualifications compare to the special needs which children or youth may present?
- 7) Does the design of any building used for family and child related activities (such as rooms used for family counseling or visits) minimize risks to staff and clients?
- 8) Are buildings used by the child welfare agency appropriately maintained?
- 9) Does the agency have a regular maintenance schedule for vehicles used to transport children? If so, describe the schedule.
- 10) Does the agency require persons who transport children to use child safety restraints and make adequate child safety seats available to staff and volunteers?
- 11) Does the agency have policies in place regarding when staff and volunteers of the same and opposite sex may be alone with clients?
- 12) Does the agency have emergency and disaster preparedness plans? Are they posted and made available to staff? If so, describe the plan and how it is made available to staff.

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- 13) Has the agency addressed any deficiencies identified by the independent auditor in the management of its financial resources? Explain what actions were taken.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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Section 401.APPENDIX E Acceptance of Voluntary Surrender of License – No Investigations Pending (Repealed)

(Source: Repealed at 35 Ill. Reg. _____, effective January 30, 2012)

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**Section 401.APPENDIX F Acceptance of Voluntary Surrender of License – Investigations
Pending (Repealed)**

(Source: Repealed at 35 Ill. Reg. _____, effective January 30, 2012)

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401.APPENDIX G: Acceptable Human Services Degrees

The following degrees may be accepted as human services degrees.

- Child, Family and Community Services
- Early Childhood Development
- Guidance and Counseling
- Home Economics - Child and Family Services
- Human Development Counseling
- Human Service Administration
- Human Services
- Master of Divinity
- Pastoral Care
- Pastoral Counseling
- Psychiatric Nursing
- Psychiatry
- Psychology
- Public Administration
- Social Science
- Social Services
- Sociology

Individuals who have a Master's degree in another field who have completed significant course work that may qualify as human services course work may submit a certified transcript of their educational experience, along with the college or university's catalogue or other description of the contents of the course work, to the Department's Central Office of Licensing for consideration of academic equivalency. The Central Office of Licensing will convene a five person panel to review all transcripts and course information and make a decision on the equivalency of the college degree to a human services degree. All decisions of the Central Office of Licensing on the equivalency of any degree shall be final and are not appealable.

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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401.APPENDIX H: Professionals Who Must Be Registered or Licensed to Practice in the State of Illinois

Type of Profession	Statute Which Requires Registration or Licensure
Athletic Trainer	Illinois Athletic Trainers Practice Act [225 ILCS 5]
Clinical Social Worker	Clinical Social Work and Social Work Practice Act [225 ILCS 20]
Dental Assistant	Illinois Dental Practice Act [225 ILCS 25]
Dentist	Illinois Dental Practice Act [225 ILCS 25]
Dietician	Dietetic and Nutrition Services Practice Act [225 ILCS 30]
Marriage and Family Therapist	Marriage and Family Therapy Licensing Act [225 ILCS 55]
Nurse	Illinois Nursing Act of 1987 [225 ILCS 65]
Occupational Therapist	Illinois Occupational Therapy Practice Act [225 ILCS 75]
Optometrist	Illinois Optometric Practice Act of 1987 [225 ILCS 80]
Pharmacist	Pharmacy Practice Act of 1987 [225 ILCS 85]
Physical Therapist	Illinois Physical Therapy Act [225 ILCS 90]
Physician	Medical Practice Act of 1987 [225 ILCS 60]
Physician Assistant	Physician Assistant Practice Act of 1987 [225 ILCS 95]
Podiatrist	Podiatric Medical Practice Act of 1987 [225 ILCS 100]
Professional Counselor	Professional Counselor and Clinical Professional Counselor Act [225 ILCS 107]
Psychologist	Clinical Psychologist Licensing Act [225 ILCS 15]
Social Worker	Clinical Social Work and Social Work Practice Act [225 ILCS 20]
Speech-Language Pathologist	Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]
Teacher	School Code [105 ILCS 5]

(Source: Added at 22 Ill. Reg. 10329, effective May 26, 1998)

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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

POLICY GUIDE 2015.09

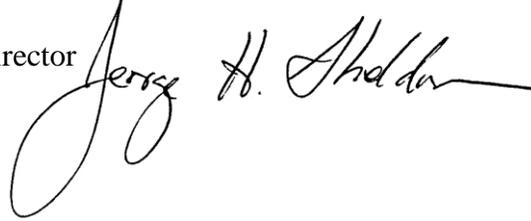
MEDICAL MARIJUANA AND LICENSED CHILD CARE FACILITIES

DATE: June 18, 2015

TO: DCFS and Private Agency Licensing Staff

FROM: George H. Sheldon, Acting Director

EFFECTIVE: Immediately



I. PURPOSE

The purpose of this Policy Guide is to inform Department and Purchase of Services (POS) licensing staff of new requirements, which are consistent with the Compassionate Use of Medical Cannabis Pilot Program Act, regarding the restrictions on the use of medical marijuana in or near licensed child care facilities.

II. PRIMARY USERS

The primary users of this Policy Guide are Department and POS licensing staff.

III. BACKGROUND

Public Act 98-0122, the Compassionate Use of Medical Cannabis Pilot Program Act, effective January 1, 2014, places restrictions on the use, cultivation, and dispensing of medical marijuana in or near licensed child care facilities.

This Policy Guide summarizes the Department's guidelines for ensuring that these restrictions are followed by licensed child care providers.

IV. SUMMARY

Marijuana prescribed for medical purposes shall not be possessed:

- in or on the premises of a licensed foster home, day care home, group day care home or part-day facility;
- in or on the premises of a licensed child welfare agency and/or child care facility;
- in any vehicle that is operated for the purpose of transporting children served through a licensed child care facility;
- in any employee vehicle parked on the grounds of a licensed child welfare agency or child care facility;
- where a child being served by a licensed facility can observe or smell marijuana; or
- in or on the premises where smoking is banned through the Smoke Free Illinois Act.



Zoning Restrictions

Cultivation centers may not be located within 2,500 feet of the property line of an existing day care center, day care home, group day care home, part day child care facility, or any area zoned for residential use.

Medical marijuana dispensary may not be located within 1,000 feet of the property line of an existing day care center, day care home, group day care home, or part day child care facility.

The Department will propose amendments to rules affected by this statute to ensure consistency with this Policy Guide.

Licensing staff shall immediately implement the new standards.

V. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at OCFP – Mailbox. Non Outlook users may e-mail questions to cfpolicy@idcfs.state.il.us.

VI. FILING INSTRUCTIONS

File this Policy Guide immediately following Rules

Rules 401, Licensing Standards for Child Welfare Agencies;
Rules 402, Licensing Standards for Foster Family Homes;
Rules 403, Licensing Standards for Group Homes;
Rules 404, Licensing Standards for Child Care Institutions and Maternity Centers;
Rules 406, Licensing Standards for Day Care Homes;
Rules 407, Licensing Standards for Day Care Homes;
Rules 408, Licensing Standards for Group Day Care Homes;
Rules 409, Licensing Standards for Youth Transitional Living Programs;
Rules 410, Licensing Standards for youth Emergency Shelters; and
Rules 411, Licensing Standards for Secure Child Care Facilities.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Distribution: X, Z, M

POLICY GUIDE 99.03

APPROVAL FOR TRANSFER OF FOSTER HOME LICENSE AND CHILDREN'S CASES BETWEEN PRIVATE AGENCIES

DATE: February 15, 1999

TO: Rules and Procedures Bookholders, Private Agency Child Welfare Staff and Agency Performance Team Monitors

FROM: Jess McDonald

EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to inform all private agency staff and agency performance team monitors of the approval process for transferring a license of a private agency foster home and the child(ren) cases who are in their care to another private agency. When conflict arises between private agency staff and a foster parent, the foster home license and child(ren) case cannot be transferred to another agency without the approval of the Department Agency Performance Monitor.

II. APPROVAL REQUIREMENTS

The transfer of children's cases and foster parents license can have a detrimental effect on the child(ren) services and permanency. Resolution of the foster parent's dissatisfaction within the same agency is in the best interest of all parties. Transferring of license and child(ren) cases should be a last resort and only at the approval of the Department's Agency Performance Monitors.

Foster parents who are in good standing and not under licensing enforcement have the right to request that their foster home license be transferred to another supervising agency, as well as the child(ren) case in their care. A transfer of a child(ren) case is considered a last resort and must be in the child(ren) best interest. A transfer of the foster home license and child(ren) case must be approved by the Agency Performance Monitor of the current supervising agency.



The following shall be completed prior to the approval of a transfer:

- 1) A written explanation of issues shall be sent to the Agency Performance Monitor of the supervising agency by the foster parent. The explanation of issues shall include:
 - a) nature of the complaint,
 - b) the issues and concerns as they relate to the foster home and the best interest of the children,
 - c) the steps that the foster parent has taken to resolve the situation; and
 - d) the outcome of steps taken.
- 2) Problem resolution efforts by the Agency Performance Team monitor shall be completed and recommendations shall be documented by the agency in the agency file and foster parents licensing file. The Agency Performance Monitor shall request the foster home licensing file and children's case file from the private agency to assist in the problem resolution process and to obtain information regarding the foster parents current licensing status with the private agency. Based on the file review, the Agency Performance Monitor may determine that additional people should be part of the problem resolution. Problem resolution shall begin within 5 days of receiving the written request for transfer from the foster parents. Problem resolution efforts should be concluded within 20 days.
- 3) Problem resolution is considered successful when:
 - a) the issues were resolved and both parties are satisfied with the outcome, or
 - b) the issues were resolved by transferring the case to another case manager within the same supervising agency.
- 4) When problem resolution results in the recommendation of transferring a foster parent license and a child(ren) case to another supervising agency, the Agency Performance Monitor is responsible for assuring that all parties working with the case are notified of the situation resulting in the transfer and that the transfer is complete.
- 5) In some instances, the Agency Performance Monitor could determine by the file review that problem resolution is not appropriate and that additional intervention into the situation will be required. In these instances, the Agency Performance Monitor shall notify his or her supervisor by telephone of the results of the file review and together they shall determine the follow-up needed to resolve the situation.

III. RESPONSIBILITIES OF AGENCY RECEIVING NEW TRANSFER

The Agency Performance Monitor to the new agency shall identify cases that are being transferred to a new agency under the provisions of this Policy Guide as such. Follow up by the new agency shall be as follows:

- 1) contact with the foster home and child(ren) within 2 days;
- 2) review file;
- 3) obtain a new 597A - Application for Family Home License to authorize the new agency/team to assume supervisory responsibility;
- 4) obtain a release of information to request the licensing file;
- 5) verify that background clearances have been completed;
- 6) document any non-compliance licensing issues which must be resolved; and
- 7) complete the private agency requirements for transfer of licensing supervision.

IV. RULES TO REFERENCE

During the file review and the problem resolution, the following rules may need to be consulted:

- Rule 301, Appendix E - Placement Clearance Desk (information regarding placing a hold on the foster home)
- Rule 300 - Reports of Child Abuse and Neglect
- Rule 402 - Licensing Standards for Foster Family Homes (information regarding licensing compliance of the home)
- Rule 401 - Licensing Standards for Child Welfare Agencies (information regarding licensing compliance of the private agency)
- Rule 301 - Placement and Visitation (information to assist in determining the best interest of the child as it relates to the child's placement).

V. FILING INSTRUCTIONS

File Policy Guide behind Rule 401, Licensing Standards for Child Welfare Agencies.

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