

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Licensing Regulations for Foster Homes in Vermont

/s/ Jenney Samuelson , on 3/8/23
(signature) (date)

Printed Name and Title:
Jenney Samuelson, Secretary
Agency of Human Services

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Licensing Regulations for Foster Homes in Vermont

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

22P030

3. ADOPTING AGENCY:

Agency of Human Services

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Heidi Moreau

Agency: Agency of Human Services, Department for
Children and Families

Mailing Address: 280 State Drive, Waterbury, VT 05671-
1080

Telephone: (802) 595-9639 Fax:

E-Mail: heidi.moreau@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://dcf.vermont.gov/fsd/laws-rules>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Jennifer Myka

Agency: Agency of Human Services, Department for
Children and Families

Mailing Address: 280 State Drive, Waterbury, VT 05671-
1080

Telephone: (802) 798-9824 Fax:

E-Mail: jennifer.myka@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

33 V.S.A.105, 33 V.S.A. 5106(4), and 33 V.S.A. 4905

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The Department for Children and Families is both responsible for the care of children and youth within its custody, and for the regulation of care environments in which those youth reside while in custody.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

This rule adds language to Section 200 of the Licensing Regulations for Foster Homes in Vermont prohibiting a foster parent from discriminating against a foster child based on race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability. The rule also adds language to section 201 requiring foster parents to support children in wearing hairstyles, clothing, and accessories affirming of the child's racial, cultural, tribal, religious, or gender identity. The rule amends section 035 to prohibit DCF from granting variances to the nondiscrimination provisions of the rules. The rule corrects typographical and grammatical errors that are present in the current rule.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

This rule is necessary to incorporate prohibitions against nondiscrimination and Family Services Policy 76, "Supporting and Affirming LGBTQ Children & Youth," into the foster care licensing rules.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

This rule is based on DCF policies that were developed after extensive research and input from various stakeholders. This rule creates a standard of care that is equally applied to any person who provides foster care.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

All children and youth in the custody of the Department for Children and Families (DCF);

All out-of-home care providers for children and youth in DCF custody not otherwise regulated or exempt from regulation;

Licensed child placing agencies;

Department for Children and Families ; and

Families of children and youth in foster care

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

The first iteration of DCF's Family Services Policy 76, "Supporting and Affirming LGBTQ Children & Youth," was adopted in 2017. Following the adoption of this policy, DCF implemented changes to the foster care licensing process to recruit, train, support, and retain foster families who are LGBTQ affirming and supporting. As the changes to this rule have already been operationalized, DCF anticipates no economic impact, other than the cost of printing new foster care licensing rules.

19. A HEARING WAS NOT HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

12/30/2022

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

foster care

foster care licensing regulations

foster parents

foster child

280 State Drive - Center Building
Waterbury, VT 05671-1000



OFFICE OF THE SECRETARY
TEL: (802) 241-0440
FAX: (802) 241-0450

JENNEY SAMUELSON
SECRETARY

TODD W. DALOZ
DEPUTY SECRETARY

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Sarah Copeland Hanzas, Secretary of State

FROM: Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in black ink, appearing to be 'Jenney Samuelson', written over the 'FROM' line.

DATE: January 31, 2023

SUBJECT: Signatory Authority for Purposes of Authorizing Administrative Rules

I hereby designate Deputy Secretary of Human Services Todd W. Daloz as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedure Act, 3. V.S.A § 801 et seq.

Cc: Todd W. Daloz

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:
Licensing Regulations for Foster Homes in Vermont
2. ADOPTING AGENCY:
Agency of Human Services
3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):
 - **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
 - **NEW RULE** - A rule that did not previously exist even under a different name.
 - **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):
SOS Log # 05-033, Licensing Regulations for Family Foster Care, September 23, 2005



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: October 10, 2022, virtually via Microsoft Teams

Members Present: Chair Douglas Farnham, Brendan Atwood, Diane Bothfeld, Jared Adler, Jennifer Mojo, John Kessler, Diane Sherman, Michael Obuchowski and Donna Russo-Savage

Minutes By: Melissa Mazza-Paquette

- 2:01 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the September 12, 2022 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- The following emergency rules were supported by ICAR Chair Farnham (*note the summaries may be found on the agenda*):
 - Transitional Housing Program Emergency Rules, Agency of Human Services, Department for Children and Families, on 09/22/22
 - The Board of Medical Practice Emergency Rule, Agency of Human Services, Department of Health, on 09/30/22
 - PUC Emergency Rule 2.500 COVID-19 Emergency Procedures, Public Utility Commission, on 09/30/22
- Presentation of Proposed Rules on pages 3-9 to follow.
 1. Licensing Regulations for Foster Homes in Vermont, Agency of Human Services, Department for Children and Family Services, page 3
 2. Telehealth, Agency of Human Services, page 4
 3. Prosthetic and Orthotic Devices, Agency of Human Services, page 5
 4. Podiatry Services, Agency of Human Services, page 6
 5. Transplantation Services, Agency of Human Services, page 7
 6. Vermont Commercial Building Energy Standards, Department of Public Service, page 8
 7. Vermont Residential Building Energy Standards Amendments, Department of Public Service, page 9
- No other business.
- Next scheduled meeting is November 14, 2022 at 2:00 p.m.
- 3:47 p.m. meeting adjourned.

Proposed Rule: Licensing Regulations for Foster Homes in Vermont, Agency of Human Services,
Department for Children and Family Services

Presented By: Jennifer Myka

Motion made to accept the rule by Diane Bothfeld, seconded by Jen Mojo, and passed unanimously except for Brendan Atwood who abstained, with the following recommendations:

1. Proposed Filing Coversheet, #3: Include URL.
2. Proposed Filing Coversheet, #8: Incorporate the name of the rule and clarify the changes.
3. Proposed Filing Coversheet, #12: Provide more detail pertaining to how the rule was operationalized.
4. Proposed Filing Coversheet: Be consistent throughout with the word 'adoption' or 'adopting'.
5. Proposed Rule, Section 2, 020 (a): Include a definition for the word 'Department'.
6. Proposed Rule, Section 1, 010: Note; The underline and cross through shifted to the left.
7. Proposed Rule, #201.6: Preference for 'substance abuse' to be changed to 'substance misuse'.

DRAFT



Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Licensing Regulations for Foster Homes in Vermont

2. ADOPTING AGENCY:

Agency of Human Services

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

As DCF already operationalized the changes in the rules over two years ago, DCF anticipates no economic impact on the following parties potentially affected by the adoption of this rule: All children and youth in the custody of the Department for Children and Families (DCF);

All out-of-home care providers for children and youth in DCF custody not otherwise regulated or exempt from regulation;

Licensed child placing agencies;

Families of children and youth in foster care. DCF anticipates a minimal economic impact to DCF as a result of the cost of publishing new foster care licensing rules.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

No impact.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Not applicable.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

No impact.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Not applicable.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

Other than reducing costs associated with the adopting and publication of a new rule, there is no economic impact of not adopting these changes since DCF operationalized the policy changes within the rule over two years ago.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

Other than the costs associated with the adoption and publication of a new rule, the rule will not impose new costs or savings on affected parties, and therefore, this analysis sufficiently captures that there will be no economic impact.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Licensing Regulations for Foster Homes in Vermont

2. ADOPTING AGENCY:

Agency of Human Services

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
No impact.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
No impact.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
No impact.

7. *CLIMATE: EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
No impact.

8. *OTHER: EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
None

9. *SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
The rule does not impact any of the areas listed above, and therefore, this analysis sufficiently captures that there will be no environmental impact.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Licensing Regulations for Foster Homes in Vermont

2. ADOPTING AGENCY:

Agency of Human Services

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

DCF will notify licensing staff and foster care providers of the change. Notice will be posted on DCF's website.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Family Services Division staff, DCF General Counsel, and DCF Policy Advisor were involved in the development of the proposed rule.



Memorandum

**To: Secretary of State and Legislative Committee
on Administrative Rulemaking**

From: Department for Children and Families

**Re: 22P030 — Licensing Regulations for Foster
Homes in Vermont**

Date: February 14, 2023

The Department for Children and Families filed the above proposed rule with the Secretary of State on October 27, 2022. DCF accepted public comments through December 30, 2022 and received four written comments.

In response to one of the comments, the Department has decided to revise the language in proposed rule 200. Changes to the language in the proposed rule are indicated with gray shading.

Summary of Written Comments and the Department's Response

Written comments were submitted by Lawrence Crist of the Vermont Parent Representation Center (VPRC), Amy Rose of Voices for Vermont's Children, and two employees of the Department for Children and Families, Family Services Division. Copies of these comments are attached. Below is a summary of each comment and the Department's response.

Comment: The commenter recommends eliminating a provision in the rules that allows the Department to disregard the licensing rules if the Department decides not to give the foster care applicant a license in the absence of a licensing visit.

Response: The Department cannot locate the provision to which the commenter is referring. Department staff are expected to complete the licensure process within 120 days assuming (1) the receipt of a fully completed application and (2) the applicant's

compliance with the background check and evaluation process (see Family Service Policy 221).

Comment: The commenter questioned how the Department will implement the prohibition against non-discrimination based on political beliefs.

Response: The Department has decided to align the language in proposed rule 200 with the following protected classes in Vermont's Public Accommodations Act, 33 V.S.A. § 4502(a): race, creed/religion, color, national origin, sex, sexual orientation, gender identity, and disability. In addition to these classes, the Department has retained age as a protected class in the final proposed rule.

Comment: The commenter recommends requiring foster parents to file taxes annually.

Response: Currently, the Department is only making changes to the rules related to non-discrimination. The Department is in the process of preparing the foster care licensing rules for a complete revision and will consider whether to include such a requirement when it initiates the next round of rulemaking.

Comment: The commenter suggested considering how the use of tobacco or peyote as it relates to tribal spiritual practices impacts foster care licensing.

Response: The Department is in the process of preparing the foster care licensing rules for a complete revision and will consider this issue when it initiates the next round of rulemaking.

From: Larry Crist
Sent: Monday, December 5, 2022 11:36 AM
To: Barron, Lindsay
Subject: Re: Proposed Rulemaking – Feedback Requested

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.
Lindsay, good morning!

Thanks for sending this. I will take a look at it.

On a related matter: there is an "escape clause" in the current rules that I think should be eliminated. It is one sentence (I will have to find it) that (and I'm paraphrasing) the rules for handling a licensing application don't have to be followed if the Department decides not to give the person a license. Essentially, no interview, no home visit/inspection etc.... has to be done if the District Office simply decides not to give the person a license absent any actual licensing visit. Seems to me it allows a District Office to play "we don't like her so she's not getting a license and no one can appeal it because we don't have to follow the licensing rules."

I will find it.
Larry

Lawrence Crist JD, MSW
Executive Director
Vermont Parent Representation Center, Inc.
P.O. Box 4087
Burlington, VT 05406
802-540-0200
www.vtprc.org

From: amy
Sent: Monday, December 5, 2022 4:44 PM
To: Barron, Lindsay
Subject: Re: Proposed Rulemaking – Feedback Requested

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.
Thank you, Lindsay!

My questions are less about the language here and more about implementation. The political belief piece is especially interesting at this moment in time.

Amy

From: Kennedy, Kenneally
Sent: Wednesday, December 7, 2022 9:08 AM
To: AHS - DCF FSD Foster Care Regs
Cc: Paul, Cathy
Subject: Regulation feedback

Hi There,

I was thinking it would be beneficial to include filing taxes annually as part of being a foster parent. This has come up in multiple adoptions as of late in my district and is a huge setback when they have not completed their taxes.

Thank you,

Kenneally Kennedy

From: Joyal, Barbara
Sent: Wednesday, December 14, 2022 9:04 AM
To: Barron, Lindsay
Subject: RE: Governor's Report *action required*

Thank you for sharing this with me... one thing that occurred to me is the use of tobacco or peyote as related to tribal spiritual practices.... I know that this is not something that we would anticipate happening with frequency... but I know it is an issue. When I was working on the QIC-AG project one of the people I met was from the Winnebago Tribe and she described having to keep her kid home after tribal events and having to teach them not to speak about the practice because of how it would be responded to by the schools. Just a thought...

Barbara A. Joyal MSW, LICSW
System of Care Unit Director
State of Vermont
Department for Children and Families
Family Services Division
280 State Drive HC1 North
Waterbury, VT 05671-1030
(c) 802 760-0599

LICENSING REGULATIONS FOR ~~FAMILY FOSTER CARE~~ HOMES IN VERMONT

Section 1.- Purpose ~~Of~~ Regulations.

010 Under the Authority of ~~33 V.S.A. 3501~~ V.S.A. § 4905, the Department of ~~Social for Children and Rehabilitation Services~~ Families ("Department") is responsible for licensing foster homes.

These regulations have been established to assure the care and safety of children who have to live in homes other than their own. A license is issued if the foster home and prospective foster parent(s) meet these regulations.

If the ~~d~~Department finds the applicant(s) or licensee(s) unwilling or unable to meet these regulations, the license will be denied or revoked.

Regulations necessary to assure a child's well-being cover the following:

1. The safety and adequacy of the home for the care of children;
2. The personal characteristics and social relationships of the foster parent(s) and other members of the household;
3. The commitment to foster care, and the ability and willingness of the foster family to work cooperatively in support of the child's case plan; and
4. The ability of the foster family to provide positive, constructive experiences for all children in their care.

Section 2. Statutory Authority.

020 Vermont law regulating the licensing of child care facilities is set forth in Title 33 of the Vermont Statutes Annotated as follows:

Foster Care and Placement Licensing (~~33 V.S.A. 3501~~) V.S.A. § 4905

- a. A person, other than an employee of a department within the ~~agency~~ Agency of human services Human Services, shall not place any child in foster care for more than 15 consecutive days unless the person has a license from the Department for Children and Families ("dDepartment") to do so or is an employee of a child-placing agency licensed by ~~such that d~~ Department.
- b. A person shall not receive, board, or keep any child in foster care for more than 15 consecutive days unless he has a license from the dDepartment to do so. This subsection shall not apply to foster homes approved by a department within the ~~agency~~ Agency of human services Human Services or by a licensed child-placing agency, nor shall it apply to those facilities where educational or vocational training is the primary service and foster care is a supportive service only.
- c. This section shall not restrict the right of a court, parent, guardian, or relative to place a child, nor the right of a person not in the business of providing foster or child care to receive, board, and keep a child when a valuable consideration is not demanded or received for the child's care and maintenance.

Administrative Provisions (~~33 V.S.A. 306~~) V.S.A. § 151

This subsection shall apply to all licenses, registrations, and applications for licenses, which and registrations, that the commissioner or the Department may issue or grant, unless otherwise specifically provided.

1. The commissioner shall issue regulations governing application applications for; and issuance, revocation, term and renewal of licenses and registration. In the regulations herules, the Commissioner may prescribe standards and conditions to be met, records to be kept, and reports to be filed. Licenses and registration shall be for a term of one year from issuance unless otherwise prescribed by regulation- rule.
2. Premises covered by a license or registration may be visited and inspected by the Department at reasonable hours. A person who accepts a license or registration shall permit visits and inspections, and examinations of the records he or she is required to keep.
3. A license or registration may be revoked for cause after hearing and may be suspended in situations that immediately imperil the health, safety, or well-being of persons in the care of the licensee or registrant.
4. Before a license is granted, the Department shall visit and inspect the premises for which the license is requested; and make further inquiry and investigation as the commissioner Commissioner may direct. Before a family child care home registration is granted, the Department shall make inquiry and investigation. Inquiry and investigation may include a visit to and inspection of the premises for which the registration is requested. Further inquiry and investigation may be made as the Commissioner may direct. [Note: family child care home registration requirements do not apply to foster homes].

Section 3. Procedures.

Issuance, Reissuance, and Conditions

- 030 An original license shall be valid for one year unless otherwise prescribed by the Commissioner, except when the license is revoked or otherwise invalidated.
- 031 Renewal of a license shall be on a yearly basis unless otherwise prescribed by the Commissioner. When the home is evaluated for re-licensure, the state licensing authority will review compliance with these regulations and will evaluate how well the needs of children in the care of the foster parent(s) have been met.
- 032 A license is valid only for the person(s) named on the license and for the premises for which the license was issued.
- 033 The Department may place conditions on a license, including thea limitation to provide care only for a specific child.
- 034 The state licensing authority may require any person in the household or any person who provides care and supervision to foster children on a regular basis, whether or not that person is an applicant or licensee, to submit references and to provide such other information as the state licensing authority may deem necessary.

Variances

- 035 The state licensing authority may grant a variance from a specific regulation upon its determination that the applicant or licensee will otherwise meet the goal of the regulation. A variance may contain provisions of

~~limitations for the license. Under no circumstances will the state licensing authority grant a variance from regulations 200, 201, or 315.~~

- 036 A variance is valid for the duration of the license, unless revoked or limited by the state licensing authority, and can be renewed.

Denial, Revocation, and Suspension

- 037 A license may be denied or revoked if the applicant or licensee fails to meet any licensing regulations.

- 038 A license may be denied or revoked if the applicant, licensee or other member of the household:

038.1 Has been charged with or convicted of a criminal offense; or

038.2 Has current, unresolved problems with alcohol or other chemicals; or

038.3 Has abused or neglected a child.

- 039 A license may be suspended if a situation exists in the foster home, which immediately imperils the health, safety, or well-being of persons in the care of the licensee.

- 040 A license may be denied, revoked, or limited if an unusually stressful situation exists in the foster home, which affects the appropriate care of the children. Such situations include, but are not limited to divorce, separation, death, unemployment, serious illness or injury, or the entry of a new member into the household.

- 041 When a license is denied, suspended, or revoked, a written notification specifying reasons for denial or revocation shall be forwarded to the applicant(s) or licensee(s).

Appeal Rights

- 042 When the eDepartment proposes revocation of a foster home license, the licensee will be offered an opportunity for a hearing with the eCommissioner or the eCommissioner's designee prior to the effective date of the revocation.

- 043 A licensee or applicant for a license who is aggrieved by a decision of the licensing unit will be granted a fair hearing before the Human Services Board if requested within 30 days of the eDepartment's issuance of the decision.

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- 044 The eDepartment shall keep records on each foster home applicant and licensee. Records shall include applications, reference letters, compliance checklists, licensing reports, and notes regarding communication with or about the applicant(s) or licensee(s). These records are the property of the eDepartment and shall only be disclosed as set forth below.

- 045 The eDepartment shall, upon request, make available to the subject applicant(s) or licensee(s) all information contained in the licensing record except information received from third persons~~parties~~, such as reference

letters and information ~~which is~~ made confidential by law. The ~~d~~Department shall, upon receiving a written release from the subject applicant(s) or licensee(s), make available to designated third persons all information contained in ~~that~~ the applicant's or licensee's licensing record to which he would have access.

Terms of Licensure

- 046 The total allowable number of children living in or regularly cared for in a foster home will be determined by evaluation of the ~~family's~~ family's ability to provide appropriate care and supervision and by the amount of living space in the home.
- 047 The number of foster children for whom a foster ~~home~~ parent is licensed shall not exceed four.
- 048 The number of foster children for whom a foster home is initially licensed shall not exceed two for the term of the first license.
- 049 A foster family shall not provide care for more than four children under six years of age at any one time, including children residing in the home and children cared for on a part-time basis.
- 050 There shall be no more than two children under the age of 24 months living in or regularly cared for in a foster home.
- 051 The total number of children residing in a foster home shall not exceed six.
- 052 A foster parent shall not provide childcare (see Definitions).

Section 10. ~~Application And~~ Evaluation ~~For~~ Licensure.

- 101 The individual or couple applying for licensure shall submit a written application on the form prescribed by the state licensing authority.
- 102 Married couples living together must make a joint application.
- 103 ~~Applicants~~ All applicants and licensees shall:

103.1 Provide complete and truthful information on the licensing application and in the licensing process.

103.2 Cooperate fully with the licensuror(s) in determining if all licensing regulations have been and continue to be met.

103.3 Cooperate fully with any licensing investigation.

- 104 A new application may be required if:

104.1 Application for a license was withdrawn and applicants are resubmitting an application;

104.2 The ~~d~~Department denied, revoked, or refused to renew the home's license and those denied, revoked, or refused seek to be reinstated as a foster home;

104.3 The home was licensed and the licensee voluntarily requested closure;

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104.5 Changes affecting eligibility for licensure have occurred.

Section 20. Characteristics of Foster Parents.

~~200 Household members in a foster home must be responsible, emotionally stable, emotionally mature people of good character as exemplified by past performance and general reputation. All foster parents are prohibited from engaging in any form of discrimination against a foster child based on race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability, or political beliefs.~~

200.1 While foster parents are prohibited from discriminating against a foster child based on the statuses listed in section 200, applicants shall not be denied a license solely based on inability to care for children of a certain age or children with special needs.

201 Applicants and licensees foster parents shall exhibit:

201.1 Healthy patterns of social and interpersonal relationships;

201.2 Knowledge of child and adolescent development and the needs of children;

201.3 Ability to apply discipline in a constructive and educational manner;

201.4 Realistic expectations regarding the behavior of foster children;

201.5 Sound judgment;

201.6 ~~Current freedom from~~ No substance abuse, and effective resolution of any past abuse of alcohol or other substances;

201.7 Responsible care and/or planning for their children, including children who are not in the applicant's or licensee's ~~custody;~~ care;

201.8 Stable emotional adjustment following any major changes in close interpersonal relationships or other life circumstances;

201.9 Ability to communicate, with or without support, with the child, Department staff, and other service providers to ensure necessary care; and

201.10 Respect for the worth of all individuals regardless of race, color, national origin, ancestry, culture, religion, sex, gender identity, sexual identity, and physical or mental ability.

202 Each child-caring adult in the home shall exhibit the ability to be an appropriate model for children.

203 All members of the household shall be free from physical conditions, mental limitations, or emotional problems, which would have an adverse effect on the physical or emotional well-being of foster children.

204 Primary caregivers shall be at least 21 years of age.

205 Foster parents shall demonstrate that they have sufficient income to support the family, exclusive of foster children, without reliance on the basic foster care reimbursement.

Section 30. Responsibilities of Foster Parents.

300 Foster parents shall participate in training determined by the child-placing agency to be necessary for the care of foster children.

Care and Supervision of Foster Children

301 Foster parents shall meet the physical, emotional, developmental and educational needs of each foster child, in accordance with the child's case plan.

302 Foster parents shall provide or arrange for supervision appropriate to each child's age and developmental level.

303 Foster parents shall have a plan for providing appropriate substitute care in their absence for employment or other purposes.

304 Foster parents shall assure that any substitute caregiver is aware of and agrees to follow all regulations regarding supervision and discipline.

305 Foster parents shall not permit any other person providing care or supervision to their foster child to violate any provision of these licensing regulations.

306 Foster parents shall take reasonable steps to safeguard foster children from hazards.

Home Environment, Community, and Family Activities

307 Foster parents shall provide constructive, positive family living experiences for foster children.

308 Material and equipment appropriate for the ages of foster children shall be available for both active and quiet play.

309 Foster parents shall arrange social contact and encourage friendship between foster children and other children in the community.

310 Foster parents shall provide opportunities for recreation and community activities.

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313 Foster parents shall not require a child to use earned money to pay for room and board unless it is approved by the child's custodian as part of the child's case plan.

314 Foster parents shall provide children with appropriate clothing.

~~315~~ Foster parents shall support children in wearing hairstyles, clothing, and accessories affirming of the child's racial, cultural, tribal, religious, or gender identity.

Confidentiality and Privacy

~~315-316~~ Foster parents shall treat all personal information regarding foster children and their families as confidential.

~~316~~

~~317~~ Foster parents shall not authorize the publication of the name or photograph of a foster child in a manner that identifies the child as a foster child without written permission of the child's custodian.

~~317~~

~~318~~ Foster parents shall permit foster children to communicate by mail and by telephone in accordance with the child's case plan.

~~318~~

~~319~~ Foster parents shall arrange for conditions of reasonable privacy for consultation with attorneys and caseworkers.

~~319~~

~~320~~ Foster parents shall respect a child's privacy.

Relationships with the Child's Family

~~320-321~~ Foster parents shall support efforts to establish and maintain ties between foster children and their families, as specified in the case plan.

~~321~~

~~322~~ Foster parents shall not deny a foster child planned visits with a parent or guardian as specified by court action or the case plan.

~~322~~

~~323~~ Foster parents shall cooperate with the child-placing agency in case planning and in carrying out the case plan.

Discipline

~~323~~

~~324~~ Discipline shall be constructive and educational in nature. Correction must be fair, reasonable, and consistent, and whenever possible must be logically connected to the behavior in need of change.

~~324~~

~~325~~ A foster parent shall not subject a foster child to any cruel, degrading, or unnecessary discipline techniques, including but not limited to:

324.1_ Spanking, slapping, hitting, shaking, or otherwise engaging in aggressive physical contact with a child;

324.2_ Requiring or forcing the child to take an uncomfortable position, such as squatting or bending, or requiring or forcing the child to repeat physical movements when used solely as a means of punishment;

324.3_ Isolation in a closet or a locked room;

324.4_ Deprivation of necessary food, water, rest, or opportunity for toileting or bathing;

324.5_ Denial of visiting or communications privileges with family, caseworker, or attorney as a means of punishment;

324.6_ Extensive withholding of positive emotional responses or stimulation;

324.7_ Chemical, mechanical, or physical restraint except as authorized in Regulation 326.

324.8_ Any act defined as abuse or neglect by Vermont Statutes Annotated, Title 33, Chapter 49.

~~325 Foster parents shall not engage in any practices that have the effect of degrading or humiliating a foster child, or that would undermine the foster child's sense of self-worth.~~

326 ___ A foster parent may not physically restrain a foster child except when the child's behavior threatens to result in harm to himself/herself or others or in significant damage to property, or when such restraint is in accordance with an established treatment plan.

326.1_ The amount of force used in restraint and the duration of the restraint must be the least amount consistent with reducing the risk to a level manageable by less restrictive means.

326.2_ Foster parents shall report to the child's custodian all incidents of physical restraint on a foster child.

326.3_ Foster parents shall keep a written account of any physical restraint used on a foster child.

327 Foster parents shall not exclude a foster child from entrance to the residence unless it is part of an approved case plan.

328 Foster parents shall not punish a child for bedwetting or actions in regard to toilet training.

Health Care

329 Foster parents shall cooperate with the custodian in securing routine and emergency medical and mental health care for foster children, including regular medical and dental examinations, and immunizations.

330 Foster parents shall observe children for signs of illness, disease, or changes in behavior and shall respond to and care for a child suffering from illness, accident, or injury.

331 First aid supplies shall be available to treat minor injuries.

332 Foster parents shall not withhold prescribed medications or treatment from a foster child or change prescribed dosages without medical authorization.

333 Foster parents shall not provide to a foster child any prescription medication not prescribed for that child.

334 Foster parents shall not provide alcoholic beverages or any illegal drug to a foster child.

Food and Nutrition

335 Foster parents shall assure that a foster child is provided at least three meals or their equivalent a day, available at regular hours.

- 336 Foster parents shall provide a well-balanced diet adequate to meet the nutritional needs of each foster child.
- 337 A foster family shall include foster children at family meals and shall offer them the same choice of food as the rest of the family, with due consideration for individual nutritional needs and preferences.

Religion and Cultural Heritage

- 338 Foster parents shall respect the religious beliefs and cultural heritage of foster children, and shall not interfere with the reasonable practice of a foster child's religious beliefs.
- 339 Foster parents shall not coerce a foster child into participating in religious activities or ethnic events against the child's will.

Reporting and Notification

- 340 A foster parent shall report to the local ~~Social Services Department~~ District Office any circumstances indicating that a foster child has been subjected to abuse ~~is an abused or neglected child as defined by 33 V.S.A. or has been a victim of assault or other physical or sexual abuse. V.S.A. § 4912.~~
- 341 Foster parents shall notify the child's custodian:
- 341.1 As soon as it has been determined that a foster child has run away or is missing;
- 341.2 Before making plans for the care of the child by other persons for any period in excess of ~~forty-eight~~ 48 hours, or for any planned absence of the child from the foster home in excess of ~~forty-eight~~ 48 hours;
- 341.3 When any member of the household contracts a disease, which may present a significant threat to the health of the foster child;
- 341.4 When a foster child experiences any serious illness or injury.
- 342 The licensee shall notify the state licensing authority when any of the following occur or are anticipated:
- 342.1 The foster family moves to a different premises;
- 342.2 There is a change, other than foster children, in household membership;
- 342.3 There are changes in the physical facility, which affect compliance with these regulations;
- 342.4 The family plans to use sleeping arrangements other than those previously approved;
- 342.5 There is a serious physical or mental illness or injury of any member of the household, which may affect the ability of the foster family to provide care for the children;
- 342.6 The family intends to provide care for children or dependent adults through more than one program or agency.

Section 40. Physical Environment.

General Safety and Maintenance

- 401 ~~The f~~Foster parents shall maintain the house, grounds and outside equipment and shall assure that they are reasonably free from any undue hazard or risk.
- 402 ___ The foster home shall be heated and ventilated adequately.
- 403 ¹¹ Foster parents shall ensure that children in the custody of the Department shall not be exposed to second hand smoke in the foster parent's home or vehicle.¹¹
- 404 The foster home shall have telephone service.
- 405 The kitchen in the foster home shall have a sink with running water and all other necessary equipment for safe food preparation and storage.
- 406 A foster home shall have a minimum of one indoor bathroom with a flush toilet, a washbasin with running water, and one bath or shower with hot and cold water.
- 407 Any firearm shall be kept in a locked storage space with ammunition stored separately in a locked space, or shall be incapacitated by means of the locking of essential parts of the firearm or the removal and separate locking of such parts.
- 408 Foster parents shall take precautions to keep medicines and hazardous materials out of the reach of children.
- 409 Emergency telephone numbers, including fire, police, physician, poison control, health agency and ambulance, shall be conspicuously posted adjacent to the telephone.
- 410 Foster parents shall restrict the access of potentially dangerous animals to foster children.
- 411 Foster parents shall maintain all power-driven equipment used by foster children in safe condition, with all safety features in place and operational.
- 411.1 Foster parents shall provide appropriate orientation and supervision when a foster child uses such equipment.

Fire Safety

- 412 The home shall be free of dangers which constitute an obvious fire hazard, such as faulty electrical cords, overloaded electrical sockets or an accumulation of papers, paint or other flammable material stored in the home.
- 413 Foster parents shall have an evacuation plan to be used in the event of fire and shall assure that, consistent with their ability to comprehend, foster children understand the plan. The plan shall include:
- 413.1 A description of two or more means of exit from each floor level used for sleeping by foster children;

413.2 The designation of a central meeting place outside the home; and;

413.3 A means of evacuating children who need assistance.

414 Foster parents shall provide an adequate number of smoke detectors, which are properly installed, located and functioning. There shall be at least one such detector in the basement and one on each floor that is used as living space.

415 Foster parents shall place a functional portable, ABC-type fire extinguisher in the cooking area of the home.

416 There shall be at least two accessible exits from each floor level used for sleeping by foster children.

Bedrooms

417 Each foster child shall be provided with his or her own bed or crib.

418 No foster child over two years of age shall sleep in the same room with an adult.

419 No child over five years of age shall sleep in the same room with a child of the opposite sex when either child is a foster child.

420 There shall be no more than four children designated to sleep in a bedroom when any of them is a foster child.

421 No living room, dining area or other area of the home, which is not ordinarily a sleeping room, may be used for such purpose by any member of the household on a regular basis.

422 A bedroom used by a foster child shall be of sufficient size to allow for a bed and to afford space for dressing, quiet activities and storage of the possessions of the occupants of the room.

423 All bedrooms and bathrooms used by foster children shall be equipped with doors which can be closed and which can be readily opened from the inside.

424 A bedroom used by a foster child shall have at least one window, which can be opened to the outside.

425 Bedroom areas shall be accessible through an entry other than a bathroom.

426 At least one bathroom shall be accessible by means of an entry other than through a bedroom.

427 A bedroom, which is accessible only through another bedroom, may be used only when the occupants of both bedrooms could share a bedroom under the provisions of these regulations.

428 Each foster child shall have a clean mattress and shall be provided with clean bedding appropriate to the season.

429 All beds designated for use by foster children shall have headroom sufficient to allow the child to sit up comfortably in bed.

430 Foster parents shall provide each foster child with a dresser or other adequate storage space and a space for hanging clothing near the bedroom occupied by the child.

Transportation

- 431 Foster parents shall have access to regular transportation for foster children.
- 432 Foster parents shall maintain vehicles used to transport foster children in a safe condition and shall assure that such vehicles are properly registered, inspected and insured.
- 433 Foster children shall be transported only by a person possessing a valid driver's license.
- 434 Foster parents shall assure that any foster child weighing less than forty pounds or any foster child less than five years of age is properly secured in a federally approved infant or child passenger restraining system when being transported in the foster parents' vehicle. Foster parents shall assure that all other foster children are properly secured in seatbelts when being transported in the foster parents' vehicle.

Section 50. Definitions.

Applicant

A person who has made formal, written application for a foster home license.

Caregiver

A person who provides care and supervision to a foster child.

Case Plan

The plan for provision of services to a foster child, developed by the agency responsible for providing such services.

Childcare

The provision of care and supervision on a regular or continuous basis in the provider's home for period of less than twenty-four hours a day, whether for compensation or not, to one or more children under sixteen years of age who are not related to the provider and who do not live in the provider's home.

Commissioner

The Commissioner of the Department of ~~Social for Children and Rehabilitation Services~~ Families (Department).

Custodian

The person or agency (such as the Department of ~~Social for Children and Rehabilitation Services~~ Families) having legal custody of a child.

Denial

The formal decision of the state licensing authority not to grant a foster home license to an applicant.

Dependent Adult

An adult who is in need of, and receives, personal care and/or supervision.

Foster Care

The provision of 24-hour per day care in a family home to a child other than the biological or adopted child of the provider.

Foster Child

A child receiving foster care.

Foster Home

The residence and physical premises in which foster care is provided and the household members residing there.

Foster Parent

A person licensed to provide foster care; a person required by state law to be so licensed.

Household Member

Any person, whether a family member or not, who lives and sleeps regularly in a foster home.

License

Authorization from the state licensing authority for designated individuals to provide foster care at a designated location; the certificate granting such authorization.

Licensed Foster Care

See statutory definition on page 1.

Licensee

A person in whose name a license is issued.

Physical Restraint

Direct physical contact required on the part of a foster parent to prevent a child from hurting ~~self~~themselves, others, or property.

Primary Caregiver

An adult who provides care and supervision to a foster child in a foster home on a regular basis.

Revocation

The formal invalidation, for cause, of a license by the state licensing authority.

State Licensing Authority

The state agency with the statutory authority to license foster homes.

Suspension

The immediate temporary invalidation of a license by the state licensing authority in a situation which immediately imperils the health, safety or well-being of a foster child.

Variance

Written authorization by the state licensing authority for an applicant or licensee to meet the intent of a regulation in a way other than that prescribed by the regulation.~~33 V.S.A. §§ 306, 3501~~

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LICENSING REGULATIONS FOR FOSTER HOMES IN VERMONT

Section 1. Purpose of Regulations.

010 Under the Authority of 33 V.S.A. § 4905, the Department for Children and Families ("Department") is responsible for licensing foster homes.

These regulations have been established to assure the care and safety of children who have to live in homes other than their own. A license is issued if the foster home and prospective foster parent(s) meet these regulations.

If the Department finds the applicant(s) or licensee(s) unwilling or unable to meet these regulations, the license will be denied or revoked.

Regulations necessary to assure a child's well-being cover the following:

1. The safety and adequacy of the home for the care of children;
2. The personal characteristics and social relationships of the foster parent(s) and other members of the household;
3. The commitment to foster care, and the ability and willingness of the foster family to work cooperatively in support of the child's case plan; and
4. The ability of the foster family to provide positive, constructive experiences for all children in their care.

Section 2. Statutory Authority.

020 Vermont law regulating the licensing of child care facilities is set forth in Title 33 of the Vermont Statutes Annotated as follows:

Foster Care and Placement Licensing (33 V.S.A. § 4905)

- a. A person, other than an employee of a department within the Agency of Human Services, shall not place any child in foster care for more than 15 consecutive days unless the person has a license from the Department for Children and Families ("Department") to do so or is an employee of a child-placing agency licensed by that Department.
- b. A person shall not receive, board, or keep any child in foster care for more than 15 consecutive days unless he has a license from the Department to do so. This subsection shall not apply to foster homes approved by a department within the Agency of Human Services or by a licensed child-placing agency, nor shall it apply to those facilities where educational or vocational training is the primary service and foster care is a supportive service only.
- c. This section shall not restrict the right of a court, parent, guardian, or relative to place a child, nor the right of a person not in the business of providing foster or child care to receive, board, and keep a child when a valuable consideration is not demanded or received for the child's care and maintenance.

Administrative Provisions (33 V.S.A. § 151)

This subchapter shall apply to all licenses, registrations, and applications for licenses and registrations, that the Commissioner or the Department may issue or grant unless otherwise specifically provided.

1. The Commissioner shall adopt rules governing applications for and issuance, revocation, term and renewal of licenses and registration. In the rules, the Commissioner may prescribe standards and conditions to be met, records to be kept, and reports to be filed. Licenses and registration shall be for a term of one year from issuance unless otherwise prescribed by rule.
2. Premises covered by a license or registration may be visited and inspected by the Department at reasonable hours. A person who accepts a license or registration shall permit visits and inspections, and examinations of the records he or she is required to keep.
3. A license or registration may be revoked for cause after hearing and may be suspended in situations that immediately imperil the health, safety, or well-being of persons in the care of the licensee or registrant.
4. Before a license is granted, the Department shall visit and inspect the premises for which the license is requested and make further inquiry and investigation as the Commissioner may direct. Before a family child care home registration is granted, the Department shall make inquiry and investigation. Inquiry and investigation may include a visit to and inspection of the premises for which the registration is requested. Further inquiry and investigation may be made as the Commissioner may direct. [Note: family child care home registration requirements do not apply to foster homes].

Section 3. Procedures.

Issuance, Reissuance, and Conditions

- 030 An original license shall be valid for one year unless otherwise prescribed by the Commissioner, except when the license is revoked or otherwise invalidated.
- 031 Renewal of a license shall be on a yearly basis unless otherwise prescribed by the Commissioner. When the home is evaluated for re-licensure, the state licensing authority will review compliance with these regulations and will evaluate how well the needs of children in the care of the foster parent(s) have been met.
- 032 A license is valid only for the person(s) named on the license and for the premises for which the license was issued.
- 033 The Department may place conditions on a license, including a limitation to provide care only for a specific child.
- 034 The state licensing authority may require any person in the household or any person who provides care and supervision to foster children on a regular basis, whether or not that person is an applicant or licensee, to submit references and to provide such other information as the state licensing authority may deem necessary.

Variations

- 035 The state licensing authority may grant a variance from a specific regulation upon its determination that the applicant or licensee will otherwise meet the goal of the regulation. A variance may contain provisions for the license. Under no circumstances will the state licensing authority grant a variance from regulations 200, 201, or 315.

036 A variance is valid for the duration of the license, unless revoked or limited by the state licensing authority, and can be renewed.

Denial, Revocation, and Suspension

037 A license may be denied or revoked if the applicant or licensee fails to meet any licensing regulations.

038 A license may be denied or revoked if the applicant, licensee or other member of the household:

038.1 Has been charged with or convicted of a criminal offense; or

038.2 Has current, unresolved problems with alcohol or other chemicals; or

038.3 Has abused or neglected a child.

039 A license may be suspended if a situation exists in the foster home, which immediately imperils the health, safety, or well-being of persons in the care of the licensee.

040 A license may be denied, revoked, or limited if an unusually stressful situation exists in the foster home, which affects the appropriate care of the children. Such situations include, but are not limited to divorce, separation, death, unemployment, serious illness or injury, or the entry of a new member into the household.

041 When a license is denied, suspended, or revoked, a written notification specifying reasons for denial or revocation shall be forwarded to the applicant(s) or licensee(s).

Appeal Rights

042 When the Department proposes revocation of a foster home license, the licensee will be offered an opportunity for a hearing with the Commissioner or the Commissioner's designee prior to the effective date of the revocation.

043 A licensee or applicant for a license who is aggrieved by a decision of the licensing unit will be granted a fair hearing before the Human Services Board if requested within 30 days of the Department's issuance of the decision.

Foster Home Records

044 The Department shall keep records on each foster home applicant and licensee. Records shall include applications, reference letters, compliance checklists, licensing reports, and notes regarding communication with or about the applicant(s) or licensee(s). These records are the property of the Department and shall only be disclosed as set forth below.

045 The Department shall, upon request, make available to the subject applicant(s) or licensee(s) all information contained in the licensing record except information received from third parties, such as reference letters and information made confidential by law. The Department shall, upon receiving a written release from the subject applicant(s) or licensee(s), make available to designated third persons all information contained in the applicant's or licensee's licensing record to which he would have access.

Terms of Licensure

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- 047 The number of foster children for whom a foster parent is licensed shall not exceed four.
- 048 The number of foster children for whom a foster home is initially licensed shall not exceed two for the term of the first license.
- 049 A foster family shall not provide care for more than four children under six years of age at any one time, including children residing in the home and children cared for on a part-time basis.
- 050 There shall be no more than two children under the age of 24 months living in or regularly cared for in a foster home.
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- 101 The individual or couple applying for licensure shall submit a written application on the form prescribed by the state licensing authority.
- 102 Married couples living together must make a joint application.
- 103 All applicants and licensees shall:
 - 103.1 Provide complete and truthful information on the licensing application and in the licensing process.
 - 103.2 Cooperate fully with the licensor(s) in determining if all licensing regulations have been and continue to be met.
 - 103.3 Cooperate fully with any licensing investigation.
- 104 A new application may be required if:
 - 104.1 Application for a license was withdrawn and applicants are resubmitting an application;
 - 104.2 The Department denied, revoked, or refused to renew the home's license and those denied, revoked, or refused seek to be reinstated as a foster home;
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200 All foster parents are prohibited from engaging in any form of discrimination against a foster child based on race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability.

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202 Each child-caring adult in the home shall exhibit the ability to be an appropriate model for children.

203 All members of the household shall be free from physical conditions, mental limitations, or emotional problems, which would have an adverse effect on the physical or emotional well-being of foster children.

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- 316 Foster parents shall treat all personal information regarding foster children and their families as confidential.
- 317 Foster parents shall not authorize the publication of the name or photograph of a foster child in a manner that identifies the child as a foster child without written permission of the child's custodian.
- 318 Foster parents shall permit foster children to communicate by mail and telephone in accordance with the child's case plan.
- 319 Foster parents shall arrange for conditions of reasonable privacy for consultation with attorneys and caseworkers.
- 320 Foster parents shall respect a child's privacy.

Relationships with the Child's Family

- 321 Foster parents shall support efforts to establish and maintain ties between foster children and their families, as specified in the case plan.
- 322 Foster parents shall not deny a foster child planned visits with a parent or guardian as specified by court action or the case plan.
- 323 Foster parents shall cooperate with the child-placing agency in case planning and in carrying out the case plan.

Discipline

- 324 Discipline shall be constructive and educational in nature. Correction must be fair, reasonable, and consistent, and whenever possible must be logically connected to the behavior in need of change.
- 325 Foster parents shall not subject a foster child to any cruel, degrading, or unnecessary discipline techniques, including but not limited to:
 - 324.1 Spanking, slapping, hitting, shaking, or otherwise engaging in aggressive physical contact with a child;
 - 324.2 Requiring or forcing the child to take an uncomfortable position, such as squatting or bending, or requiring or forcing the child to repeat physical movements when used solely as a means of punishment;
 - 324.3 Isolation in a closet or a locked room;
 - 324.4 Deprivation of necessary food, water, rest, or opportunity for toileting or bathing;
 - 324.5 Denial of visiting or communications privileges with family, caseworker, or attorney as a means of punishment;
 - 324.6 Extensive withholding of positive emotional responses or stimulation;
 - 324.7 Chemical, mechanical, or physical restraint except as authorized in Regulation 326.

324.8 Any act defined as abuse or neglect by Vermont Statutes Annotated, Title 33, Chapter 49.

326 Foster parents may not physically restrain a foster child except when the child's behavior threatens to result in harm to himself/herself or others or in significant damage to property, or when such restraint is in accordance with an established treatment plan.

326.1 The amount of force used in restraint and the duration of the restraint must be the least amount consistent with reducing the risk to a level manageable by less restrictive means.

326.2 Foster parents shall report to the child's custodian all incidents of physical restraint on a foster child.

326.3 Foster parents shall keep a written account of any physical restraint used on a foster child.

327 Foster parents shall not exclude a foster child from entrance to the residence unless it is part of an approved case plan.

328 Foster parents shall not punish a child for bedwetting or actions in regard to toilet training.

Health Care

329 Foster parents shall cooperate with the custodian in securing routine and emergency medical and mental health care for foster children, including regular medical and dental examinations, and immunizations.

330 Foster parents shall observe children for signs of illness, disease, or changes in behavior and shall respond to and care for a child suffering from illness, accident, or injury.

331 First aid supplies shall be available to treat minor injuries.

332 Foster parents shall not withhold prescribed medications or treatment from a foster child or change prescribed dosages without medical authorization.

333 Foster parents shall not provide to a foster child any prescription medication not prescribed for that child.

334 Foster parents shall not provide alcoholic beverages or any illegal drug to a foster child.

Food and Nutrition

335 Foster parents shall assure that a foster child is provided at least three meals or their equivalent a day, available at regular hours.

336 Foster parents shall provide a well-balanced diet adequate to meet the nutritional needs of each foster child.

337 A foster family shall include foster children at family meals and shall offer them the same choice of food as the rest of the family, with due consideration for individual nutritional needs and preferences.

Religion and Cultural Heritage

338 Foster parents shall respect the religious beliefs and cultural heritage of foster children, and shall not interfere with the reasonable practice of a foster child's religious beliefs.

- 339 Foster parents shall not coerce a foster child into participating in religious activities or ethnic events against the child's will.

Reporting and Notification

- 340 Foster parents shall report to the local Department District Office any circumstances indicating that a foster child is an abused or neglected child as defined by 33 V.S.A. § 4912.
- 341 Foster parents shall notify the child's custodian:
- 341.1 As soon as it has been determined that a foster child has run away or is missing;
 - 341.2 Before making plans for the care of the child by other persons for any period in excess of 48 hours, or for any planned absence of the child from the foster home in excess of 48 hours;
 - 341.3 When any member of the household contracts a disease, which may present a significant threat to the health of the foster child;
 - 341.4 When a foster child experiences any serious illness or injury.
- 342 The licensee shall notify the state licensing authority when any of the following occur or are anticipated:
- 342.1 The foster family moves to a different premises;
 - 342.2 There is a change, other than foster children, in household membership;
 - 342.3 There are changes in the physical facility, which affect compliance with these regulations;
 - 342.4 The family plans to use sleeping arrangements other than those previously approved;
 - 342.5 There is a serious physical or mental illness or injury of any member of the household, which may affect the ability of the foster family to provide care for the children;
 - 342.6 The family intends to provide care for children or dependent adults through more than one program or agency.

Section 40. Physical Environment.

General Safety and Maintenance

- 401 Foster parents shall maintain the house, grounds and outside equipment and shall assure that they are reasonably free from any undue hazard or risk.
- 402 The foster home shall be heated and ventilated adequately.
- 403 Foster parents shall ensure that children in the custody of the Department shall not be exposed to second hand smoke in the foster parent's home or vehicle.

- 404 The foster home shall have telephone service.
- 405 The kitchen in the foster home shall have a sink with running water and all other necessary equipment for safe food preparation and storage.
- 406 A foster home shall have a minimum of one indoor bathroom with a flush toilet, a washbasin with running water, and one bath or shower with hot and cold water.
- 407 Any firearm shall be kept in a locked storage space with ammunition stored separately in a locked space, or shall be incapacitated by means of the locking of essential parts of the firearm or the removal and separate locking of such parts.
- 408 Foster parents shall take precautions to keep medicines and hazardous materials out of the reach of children.
- 409 Emergency telephone numbers, including fire, police, physician, poison control, health agency and ambulance, shall be conspicuously posted adjacent to the telephone.
- 410 Foster parents shall restrict the access of potentially dangerous animals to foster children.
- 411 Foster parents shall maintain all power-driven equipment used by foster children in safe condition, with all safety features in place and operational.
 - 411.1 Foster parents shall provide appropriate orientation and supervision when a foster child uses such equipment.

Fire Safety

- 412 The home shall be free of dangers which constitute an obvious fire hazard, such as faulty electrical cords, overloaded electrical sockets or an accumulation of papers, paint or other flammable material stored in the home.
- 413 Foster parents shall have an evacuation plan to be used in the event of fire and shall assure that, consistent with their ability to comprehend, foster children understand the plan. The plan shall include:
 - 413.1 A description of two or more means of exit from each floor level used for sleeping by foster children;
 - 413.2 The designation of a central meeting place outside the home; and
 - 413.3 A means of evacuating children who need assistance.
- 414 Foster parents shall provide an adequate number of smoke detectors, which are properly installed, located and functioning. There shall be at least one such detector in the basement and one on each floor that is used as living space.
- 415 Foster parents shall place a functional portable, ABC-type fire extinguisher in the cooking area of the home.

416 There shall be at least two accessible exits from each floor level used for sleeping by foster children.

Bedrooms

417 Each foster child shall be provided with his or her own bed or crib.

418 No foster child over two years of age shall sleep in the same room with an adult.

419 No child over five years of age shall sleep in the same room with a child of the opposite sex when either child is a foster child.

420 There shall be no more than four children designated to sleep in a bedroom when any of them is a foster child.

421 No living room, dining area or other area of the home, which is not ordinarily a sleeping room, may be used for such purpose by any member of the household on a regular basis.

422 A bedroom used by a foster child shall be of sufficient size to allow for a bed and to afford space for dressing, quiet activities and storage of the possessions of the occupants of the room.

423 All bedrooms and bathrooms used by foster children shall be equipped with doors which can be closed and which can be readily opened from the inside.

424 A bedroom used by a foster child shall have at least one window, which can be opened to the outside.

425 Bedroom areas shall be accessible through an entry other than a bathroom.

426 At least one bathroom shall be accessible by means of an entry other than through a bedroom.

427 A bedroom, which is accessible only through another bedroom, may be used only when the occupants of both bedrooms could share a bedroom under the provisions of these regulations.

428 Each foster child shall have a clean mattress and shall be provided with clean bedding appropriate to the season.

429 All beds designated for use by foster children shall have headroom sufficient to allow the child to sit up comfortably in bed.

430 Foster parents shall provide each foster child with a dresser or other adequate storage space and a space for hanging clothing near the bedroom occupied by the child.

Transportation

431 Foster parents shall have access to regular transportation for foster children.

432 Foster parents shall maintain vehicles used to transport foster children in a safe condition and shall assure that such vehicles are properly registered, inspected and insured.

433 Foster children shall be transported only by a person possessing a valid driver's license.

434 Foster parents shall assure that any foster child weighing less than forty pounds or any foster child less than five years of age is properly secured in a federally approved infant or child passenger restraining system when being transported in the foster parents' vehicle. Foster parents shall assure that all other foster children are properly secured in seatbelts when being transported in the foster parents' vehicle.

Section 50. Definitions.

Applicant

A person who has made formal, written application for a foster home license.

Caregiver

A person who provides care and supervision to a foster child.

Case Plan

The plan for provision of services to a foster child, developed by the agency responsible for providing such services.

Childcare

The provision of care and supervision on a regular or continuous basis in the provider's home for period of less than twenty-four hours a day, whether for compensation or not, to one or more children under sixteen years of age who are not related to the provider and who do not live in the provider's home.

Commissioner

The Commissioner of the Department for Children and Families (Department).

Custodian

The person or agency (such as the Department for Children and Families) having legal custody of a child.

Denial

The formal decision of the state licensing authority not to grant a foster home license to an applicant.

Dependent Adult

An adult who is in need of, and receives, personal care and/or supervision.

Foster Care

The provision of 24-hour per day care in a family home to a child other than the biological or adopted child of the provider.

Foster Child

A child receiving foster care.

Foster Home

The residence and physical premises in which foster care is provided and the household members residing there.

Foster Parent

A person licensed to provide foster care; a person required by state law to be so licensed.

Household Member

Any person, whether a family member or not, who lives and sleeps regularly in a foster home.

License

Authorization from the state licensing authority for designated individuals to provide foster care at a designated location; the certificate granting such authorization.

Licensed Foster Care

See statutory definition on page 1.

Licensee

A person in whose name a license is issued.

Physical Restraint

Direct physical contact required on the part of a foster parent to prevent a child from hurting themselves, others, or property.

Primary Caregiver

An adult who provides care and supervision to a foster child in a foster home on a regular basis.

Revocation

The formal invalidation, for cause, of a license by the state licensing authority.

State Licensing Authority

The state agency with the statutory authority to license foster homes.

Suspension

The immediate temporary invalidation of a license by the state licensing authority in a situation which immediately imperils the health, safety or well-being of a foster child.

Variance

Written authorization by the state licensing authority for an applicant or licensee to meet the intent of a regulation in a way other than that prescribed by the regulation.

The Vermont Statutes Online

Title 33 : Human Services

Chapter 001 : Department For Children And Families

Subchapter 001 : Policy, Organization, Powers, And Duties

(Cite as: 33 V.S.A. § 105)

§ 105. Commissioner; appointment, term, duties, and powers

(a) The Commissioner may exercise the powers and perform duties required for effective administration of the Department, and he or she shall determine the policies of the Department.

(b) In addition to other duties imposed by law, the Commissioner shall:

(1) administer the laws assigned to the Department;

(2) fix standards and adopt rules necessary to administer those laws and for the custody and preservation of records of the Department;

(3) appoint all necessary assistants, prescribe their duties, and adopt rules necessary to ensure that the assistants shall hold merit system status while in the employ of the Department, unless otherwise specifically provided by law.

(c) The Commissioner or the Governor, whenever the federal law so provides, may cooperate with the federal government in providing relief and work relief and community work and training programs in the State.

(d) The Commissioner, with the approval of the Attorney General, may enter into reciprocal agreements with social and child welfare agencies in other states in matters relating to social welfare, children, and families.

(e) The Commissioner shall ensure the provision of services to children and adolescents with a severe emotional disturbance in coordination with the Secretary of Education and the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living in accordance with the provisions of chapter 43 of this title.

(f) Notwithstanding any other provision of law, the Commissioner may delegate to any appropriate employee of the Department any of the administrative duties and powers imposed on him or her by law, with the exception of the duties and powers enumerated in this section. The delegation of authority and responsibility shall not relieve the Commissioner of accountability for the proper administration of the Department.

(g) The Commissioner may publicly disclose findings or information about any case of

child abuse or neglect that has resulted in the fatality or near fatality of a child, including information obtained under chapter 49 of this title, unless the State's Attorney or Attorney General who is investigating or prosecuting any matter related to the fatality requests the Commissioner to withhold disclosure, in which case the Commissioner shall not disclose any information until completion of any criminal proceedings related to the fatality or until the State's Attorney or Attorney General consents to disclosure, whichever occurs earlier. (Added 1967, No. 147, § 1; amended 1973, No. 101, § 6; 1983, No. 175 (Adj. Sess.); 2013, No. 131 (Adj. Sess.), § 6, eff. May 20, 2014; 2015, No. 29, § 11; 2021, No. 20, § 273.)

The Vermont Statutes Online

Title 33 : Human Services

Chapter 051 : General Provisions

(Cite as: 33 V.S.A. § 5106)

§ 5106. Powers and duties of Commissioner

Subject to the limitations of the juvenile judicial proceedings chapters or those imposed by the court, and in addition to any other powers granted to the Commissioner under the laws of this State, the Commissioner has the following authority with respect to a child who is or may be the subject of a petition brought under the juvenile judicial proceedings chapters:

(1) To undertake assessments and make reports and recommendations to the court as authorized by the juvenile judicial proceedings chapters.

(2) To investigate complaints and allegations that a child is in need of care or supervision for the purpose of considering the commencement of proceedings under the juvenile judicial proceedings chapters.

(3) To supervise and assist a child who is placed under the Commissioner's supervision or in the Commissioner's legal custody by order of the court, and to administer sanctions in accordance with graduated sanctions established by policy and that are consistent with the juvenile probation certificate.

(4) To place a child who is in the Commissioner's legal custody in a family home or a treatment, rehabilitative, detention, or educational facility or institution subject to the provisions of sections 5292 and 5293 of this title. To the extent that it is appropriate and possible, siblings in the Commissioner's custody shall be placed together.

(5) To make appropriate referrals to private or public agencies.

(6) To perform such other functions as are designated by the juvenile judicial proceedings chapters. (Added 2007, No. 185 (Adj. Sess.), § 1, eff. Jan. 1, 2009; amended 2015, No. 153 (Adj. Sess.), § 13.)

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 33 : Human Services

Chapter 049 : Child Welfare Services

Subchapter 001 : General Provisions

(Cite as: 33 V.S.A. § 4905)

§ 4905. Foster care and placement licensing

(a) A person other than an employee of a department within the Agency of Human Services shall not place any child in foster care for more than 15 consecutive days unless the person has a license from the Department to do so or is an employee of a child-placing agency licensed by that Department.

(b) A person shall not receive, board, or keep any child in foster care for more than 15 consecutive days unless he or she has a license from the Department to do so. This subsection shall not apply to foster homes approved by a department within the Agency of Human Services or by a licensed child-placing agency, nor shall it apply to those facilities where educational or vocational training is the primary service and foster care is a supportive service only.

(c) This section shall not restrict the right of a court, parent, guardian, or relative to place a child, nor the right of a person not in the business of providing foster care or child care to receive, board, and keep a child when a valuable consideration is not demanded or received for the child's care and maintenance. (Added 2013, No. 131 (Adj. Sess.), § 75.)



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Dec 01, 2022

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	22P030
Title:	Licensing Regulations for Foster Homes in Vermont
Type:	Standard
Status:	Final Proposed
Agency:	Agency of Human Services
Legal Authority:	33 V.S.A.105, 33 V.S.A. 5106(4), and 33 V.S.A. 4905
Summary:	This rule adds language to Section 200 of the Licensing Regulations for Foster Homes in Vermont prohibiting a foster parent from discriminating against a foster child based on race, religion, color, national origin, sex, sexual orientation, gender

identity, age, disability, or political beliefs. The rule also adds language to section 201 requiring foster parents to support children in wearing hairstyles, clothing, and accessories affirming of the child's racial, cultural, tribal, religious, or gender identity. The rule amends section 035 to prohibit DCF from granting variances to the nondiscrimination provisions of the rules. The rule corrects typographical and grammatical errors that are present in the current rule.

Persons Affected:

All children and youth in the custody of the Department for Children and Families (DCF); All out-of-home care providers for children and youth in DCF custody not otherwise regulated or exempt from regulation; Licensed child placing agencies; Department for Children and Families; and Families of children and youth in foster care

Economic Impact:

The first iteration of DCF's Family Services Policy 76, "Supporting and Affirming LGBTQ Children & Youth," was adopted in 2017. Following the adoption of this policy, DCF implemented changes to the foster care licensing process to recruit, train, support, and retain foster families who are LGBTQ affirming and supporting. As the changes to this rule have already been operationalized, DCF anticipates no economic impact, other than the cost of printing new foster care licensing rules.

Posting date:

Nov 02,2022

Hearing Information

There are not Hearings scheduled for this Rule

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level:	Primary
Name:	Heidi Moreau
Agency:	Agency of Human Services
Address:	280 State Drive
City:	Waterbury
State:	VT

Zip: 05671-1080
 Telephone: 802-595-9639
 Fax:
 Email: heidi.moreau@vermont.gov

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Website Address: <https://dcf.vermont.gov/fsd/laws-rules>

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Information for Secondary Contact

SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary
 Name: Jennifer Myka
 Agency: Agency of Human Services
 Address: 280 State Drive
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Keyword Information

Keywords:

foster care
 foster care licensing regulations
 foster parents
 foster child

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	Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: APA Coordinator, VSARA

Date of Fax: March 14, 2023

RE: REVISED "Proposed State Rules " ad copy to run on

November 10, 2022

PAGES INCLUDING THIS COVER MEMO:

4

***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/> . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Vermont Residential Building Energy Standards (RBES) Amendments.

Vermont Proposed Rule: 22P028

AGENCY: Department of Public Service

CONCISE SUMMARY: These standards regulate the design and construction of residential buildings to require adequate thermal insulation, low air leakage, effective and efficient mechanical, ventilation, electrical, service waterheating and illumination systems and equipment to enable effective use of energy in residential buildings. This is an update of the 2020 Vermont Residential Building Energy Standards (RBES). Among the more significant changes from 2020 RBES are: Increased insulation R- values for walls, ceilings and basements; a continuous insulation requirement for walls; increased minimum window R-values; tighter airsealing requirements; efficient balanced whole-house ventilation system with heat recovery requirement; EV Capable and Solar Ready requirements.

FOR FURTHER INFORMATION, CONTACT: Kelly Launder, Department of Public Service, 112 State Street, Montpelier, VT 05620 Tel: 802-828-4039 Email: kelly.launder@vermont.gov URL: <http://publicservice.vermont.gov/content/building-energy-standards-update>.

FOR COPIES: Ben Civiletti, Department of Public Service, 112 State Street, Montpelier, VT 05620 Tel: 802-622-4388 Email: Benjamin.Civiletti@vermont.gov

Vermont Commercial Building Energy Standards (CBES) Amendments.

Vermont Proposed Rule: 22P029

AGENCY: Department of Public Service

CONCISE SUMMARY: This proposed rule amends the existing Vermont Commercial Building

Energy Standards (CBES), last updated in 2020. The amendments reduce energy use in commercial buildings and improve efficiency of building operations by regulating the design of building envelopes for adequate thermal resistance and low air leakage and the design and selection of mechanical, ventilation, electrical, service water- heating and illumination systems and equipment which will enable effective use of energy in commercial building construction. This will reduce costs of operation while improving efficiency, reducing greenhouse gas emissions, and enhancing the internal environment of a building.

FOR FURTHER INFORMATION, CONTACT: Barry Murphy, Department of Public Service, 112 State Street, Montpelier, VT 05620 Tel: 802-828-3183 Email: barry.murphy@vermont.gov URL: <https://publicservice.vermont.gov/content/building-energy-standards-update>.

FOR COPIES: Ben Civiletti, Department of Public Service, 112 State Street, Montpelier, VT 05620 Tel: 802-622-4388 Email: Benjamin.Civiletti@vermont.gov

Licensing Regulations for Foster Homes in Vermont.

Vermont Proposed Rule: 22P030

AGENCY: Agency of Human Services

CONCISE SUMMARY: This rule adds language to Section 200 of the Licensing Regulations for Foster Homes in Vermont prohibiting a foster parent from discriminating against a foster child based on race, religion, color, national origin, sex, sexual orientation, gender identity, age, disability, or political beliefs. The rule also adds language to section 201 requiring foster parents to support children in wearing hairstyles, clothing, and accessories affirming of the child's racial, cultural, tribal, religious, or gender identity. The rule amends section 035 to prohibit DCF from granting variances to the nondiscrimination provisions of the rules. The rule corrects typographical and grammatical errors that are present in the current rule.

FOR FURTHER INFORMATION, CONTACT: Heidi Moreau, Agency of Human Services, Department for Children and Families, 280 State Drive, Waterbury, VT 05671-1080 Tel: 802-595-9639 Email: heidi.moreau@vermont.gov URL: <https://dcf.vermont.gov/fsd/laws-rules>.

FOR COPIES: Jennifer Myka, Agency of Human Services, Department for Children and Families, 280 State Drive, Waterbury, VT 05671-1080 Tel: 802-798-9824 Email: jennifer.myka@vermont.gov

Note: The four rules below have been promulgated by the Agency of Human Services who has requested the notices be combined to facilitate a savings for the agency. When contacting the agency about these rules please note the title and rule number of the rule(s) you are interested in.

- Telehealth – Vermont Proposed Rule: 22P031
- Prosthetic and Orthotic Devices – Vermont Proposed Rule: 22P032
- Podiatry Services – Vermont Proposed Rule: 22P033
- Transplantation Services – Vermont Proposed Rule: 22P034

AGENCY: Agency of Human Services

CONCISE SUMMARY: The proposed rules set forth criteria for coverage and service delivery for the Medicaid program. These rules are part of the sequential adoption of Health Care Administrative Rules (HCAR) designed to improve public accessibility and comprehension of the rules under Vermont's Medicaid Program. The amendments to each of the four rules align with relevant federal and state law and guidance. The amendment to telehealth adds audio-only services and outlines requirements for service delivery via audio-only as well as updates terminology and added clarity. The amendments to prosthetic and orthotic devices, podiatry services, and transplantation services were made to be consistent with HCAR language and formatting and to align with current practices.

FOR FURTHER INFORMATION, CONTACT: Hillary Hill, Agency of Human Services, 280 State Drive, Waterbury, VT 05671-1000; Tel: 802-989-4245; Fax: 802-241-0450; E-mail: Hillary.hill@vermont.gov; URL: <https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hcar>
