

West's General Laws of Rhode Island Annotated _Title 42. State Affairs and Government _Chapter 72.1.
Licensing and Monitoring of Child Care Providers and Child-Placing Agencies

Gen.Laws 1956, § 42-7 2.1-1

§ 42-7 2.1-1. Statement of purpose

(a) The director of the department of children, youth, and families, pursuant to § 42-72-5(b)(7) and § 42-72-5(b)(24), shall establish within the department a unit to license and monitor child care providers and child-placing agencies, to protect the health, safety and well being of children temporarily separated from or being cared for away from their natural families.

(b) Services for children requiring licensure under this chapter shall include all child care providers and child placing agencies which offer services within the state, except as defined in § 42-72.1-5.

Gen.Laws 1956, § 42-7 2.1-2

§ 42-7 2.1-2. Definitions

As used in this chapter:

(1) "Administrator of licensing" means the director of the licensing unit (or his/her designee) that carries out the provisions of this chapter, hereafter referred to as the "administrator".

(2) "Applicant" means a child-placing agency or childcare provider that applies for a license to operate.

(3) "Child" means any person less than eighteen (18) years of age; provided, that a child over eighteen (18) years of age who is nevertheless subject to continuing jurisdiction of the family court, pursuant to chapter 1 of title 14, or defined as emotionally disturbed according to chapter 7 of title 40.1, shall be considered a child for the purposes of this chapter.

(4) "Childcare provider" means a person or agency which offers residential or nonresidential care and/or treatment for a child outside of his/her natural home.

(5) "Child day care" means daily care and/or supervision offered commercially to the public for any part of a twenty-four (24) hour day to children away from their homes.

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(6) "Child day care center" means any person, firm, corporation, association, or agency who, on a regular or irregular basis, receives any child under the age of sixteen (16) years, for the purpose of care and/or supervision, not in a home or residence, apart from the child's parent or guardian for any part of a twenty-four (24) hour day irrespective of compensation or reward. It shall include childcare programs that are offered to employees at the worksite. It does not include nursery schools or other programs of educational services subject to approval by the commissioner of elementary and secondary education.

(7) "Child-placing agency" means any private or public agency which receives children for placement into independent living arrangements, supervised apartment living, residential group care facilities, family foster homes, or adoptive homes.

(8) "Department" means the department of children, youth, and families (DCYF).

(9) "Director" means the director of the department of children, youth, and families, or the director's designee.

(10) "Family day care home" means any home other than the child's home in which child day care in lieu of parental care and/or supervision is offered at the same time to four (4) or more children who are not relatives of the care giver.

(11) "Group family day care home" means a residence occupied by an individual of at least twenty-one (21) years of age who provides care for not less than nine (9) and not more than twelve (12) children, with the assistance of one or more approved adults, for any part of a twenty-four (24) hour day. The maximum of twelve (12) children shall include children under six (6) years of age who are living in the home, school-age children under the age of twelve (12) years whether they are living in the home or are received for care, and children related to the provider who are received for care. These programs shall be subject to yearly licensing as addressed in this chapter and shall comply with all applicable state and local fire, health, and zoning regulations.

(12) "Licensee" means any person, firm, corporation, association, or agency, which holds a valid license under this chapter.

(13) "Regulation" means any requirement for licensure, promulgated pursuant to this chapter having the force of law.

(14) "Related" means any of the following relationships, by marriage, blood or adoption, even following the death or divorce of a natural parent: parent, grandparent, brother, sister, aunt, uncle, and first cousin. In a prosecution under this chapter or of any law relating thereto, a defendant who relies for a defense upon the relationship of any child to him or herself, the defendant shall have the burden of proof as to the relationship.

Gen.Laws 1956, § 42-72.1-3

§ 42-72.1-3. Powers and scope of activities

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(a) The department shall issue, deny, and revoke licenses for, and monitor the operation of, facilities and programs by child placing agencies and child care providers, as defined in § 42-72.1-2.

(b) The department shall adopt, amend, and rescind regulations in accordance with this chapter and implement its provisions. The regulations shall be promulgated and become effective in accordance with the provisions of the Administrative Procedures Act, chapter 35 of title 42.

(c) The department through its licensing unit shall administer and manage the regulations pertaining to the licensing and monitoring of those agencies, and shall exercise all statutory and administrative powers necessary to carry out its functions.

(d) The administrator shall investigate complaints of noncompliance, and shall take licensing action as required.

(e) Regulations formulated pursuant to the foregoing authority shall include, but need not be limited to, the following:

(1) Financial, administrative and organizational ability, and stability of the applicant;

(2) Compliance with specific fire and safety codes and health regulations;

(3) Character, health suitability, qualifications of child care providers;

(4) Staff/child ratios and workload assignments of staff providing care or supervision to children;

(5) Type and content of records or documents that must be maintained to collect and retain information for the planning and caring for children;

(6) Procedures and practices regarding basic child care and placing services to ensure protection to the child regarding the manner and appropriateness of placement;

(7) Service to families of children in care;

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(8) Program activities, including components related to physical growth, social, emotional, educational, and recreational activities, social services and habilitative or rehabilitative treatment;

(9) Investigation of previous employment, criminal record check and department records check; and

(10) Immunization and testing requirements for communicable diseases, including, but not limited to, tuberculosis, of child care providers and children at any child day-care center or family day-care home as is specified in regulations promulgated by the director of the department of health. Notwithstanding the foregoing, all licensing and monitoring authority shall remain with the department of children, youth, and families.

(f) The administrator may:

(1) Prescribe any forms for reports, statements, notices, and other documents deemed necessary;

(2) Prepare and publish manuals and guides explaining this chapter and the regulations to facilitate compliance with and enforcement of the regulations;

(3) Prepare reports and studies to advance the purpose of this chapter;

(4) Provide consultation and technical assistance, as requested, to assist licensees in maintaining compliance; and

(5) Refer to the advisory council for children and families for advice and consultation on licensing matter.

(g) The department may promulgate rules and regulations for the establishment of child day care centers located on the second floor.

(h) When the department is otherwise unsuccessful in remedying noncompliance with the provisions of this chapter and the regulations promulgated under it, it shall petition the family court for an order enjoining the noncompliance or for any order that equity and justice may require.

(i) The department shall collaborate with the departments of human services, elementary and secondary education, and health to provide monitoring, mentoring, training, technical assistance, and other services which are necessary and appropriate to improving the quality of child care offered by child care providers who are certified, licensed, or

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approved by the department or the department of elementary and secondary education or who are seeking certification, licensure, or approval pursuant to § 42-72-1 or § 16-48-2, including non-English speaking providers.

(j) The department shall adopt, amend, and rescind regulations in the same manner as set forth above in order to permit the placement of a pregnant minor in a group residential facility which provides a shelter for pregnant adults as its sole purpose.

Gen.Laws 1956, § 42-72.1-4

§ 42-72.1-4. License required

(a) No person shall provide continuing full-time care for a child apart from the child's parents, or receive or place children in child care services, including day care arrangements, without a license issued pursuant to this chapter. This requirement does not apply to a person related by blood, marriage, guardianship or adoption to the child, unless that arrangement is for the purposes of day care.

(b) The licensing requirement does not apply to shelter operations for parents with children, boarding schools, recreation camps, nursing homes, hospitals, maternity residences, and centers for developmentally disabled children

(c) No person, firm, corporation, association, or agency, other than a parent shall place, offer to place, or assist in the placement of a child in Rhode Island, for the purpose of adoption, unless the person, firm, corporation, or agency shall have been licensed for those purposes by the department or is a governmental child-placing agency, and that license shall not have been rescinded at the time of placement of a child for the purpose of adoption. The above does not apply when a person, firm, corporation, association, or agency places, offers to place, or assists in the placement of a child in Rhode Island, for the purpose of adoption through a child-placement agency duly licensed for child-placement in the state or through the department of children, youth, and families, nor when the child is placed with a father, sister, brother, aunt, uncle, grandparent, or stepparent of the child.

(d) No parent shall assign or otherwise transfer to another not related to him or her by blood or marriage, his or her rights or duties with respect to the permanent care and custody of his or her child under eighteen (18) years of age unless duly authorized so to do by an order or decree of court.

(e) No person shall bring or send into the state any child for the purpose of placing him or her out, or procuring his or her adoption, or placing him or her in a foster home without first obtaining the written consent of the director, and that person shall conform to the rules of the director and comply with the provisions of the Interstate Compact on the Placement of Children, chapter 15 of title 40.

(f) No person, firm, corporation, association, or agency shall operate a family day care home without a registration certificate issued by the department.

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(g) No state, county, city, or political subdivision shall operate a child placing or child care agency, program or facility without a license issued pursuant to this chapter.

(h) No person shall be exempt from a required license by reason of public or private, sectarian, non-sectarian, court-operated child placement or child-care program, for profit or non-profit status, or by any other reason of funding, sponsorship, or affiliation.

Gen.Laws 1956, § 42-72.1-5

§ 42-72.1-5. General licensing provisions

The following general licensing provisions shall apply:

(1) A license issued under this chapter is not transferable and applies only to the licensee and the location stated in the application and remains the property of the department. A license shall be publicly displayed. A license shall be valid for one year from the date of issue and upon continuing compliance with the regulations, except that a certificate issued to a family day care home, a license issued to a foster parent, and/or a license issued to a program for mental health services for "seriously emotionally disturbed children" as defined in § 42-72-5(b)(24) shall be valid for two (2) years from the date of issue.

(2) Every license application issued pursuant to § 42-72.1-4 shall be accompanied by a nonrefundable application fee paid to the State of Rhode Island as follows:

(a) Adoption and foster care child placing agency license -- one thousand dollars (\$1000);

(b) Child day care center license -- five hundred dollars (\$500);

(c) Group family day care home license -- two hundred and fifty dollars (\$250);

(d) Family day care home license -- one hundred dollars (\$100).

(3) All fees collected by the State pursuant to paragraph (2) of this section shall be deposited by the general treasurer as general revenues.

(4) A licensee shall comply with applicable state fire and health safety standards.

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(5) The department may grant a provisional license to an applicant, excluding any foster parent applicant, who is not able to demonstrate compliance with all of the regulations because the program or residence is not in full operation; however, the applicant must meet all regulations that can be met in the opinion of the administrator before the program is fully operational. The provisional license shall be granted for a limited period not to exceed six (6) months and shall be subject to review every three (3) months.

(6) The department may grant a probationary license to a licensee who is temporarily unable to comply with a rule or rules when the noncompliance does not present an immediate threat to the health and well-being of the children, and when the licensee has obtained a plan approved by the administrator to correct the areas of noncompliance within the probationary period. A probationary license shall be issued for up to twelve (12) months; it may be extended for an additional six (6) months at the discretion of the administrator. A probationary license that states the conditions of probation may be issued by the administrator at any time for due cause. Any prior existing license is invalidated when a probationary license is issued. When the probationary license expires, the administrator may reinstate the original license to the end of its term, issue a new license or revoke the license.

(7) The administrator will establish criteria and procedure for granting variances as part of the regulations.

(8) The above exceptions (probationary and provisional licensing and variances) do not apply to and shall not be deemed to constitute any variance from state fire and health safety standards. However, if a request for a variance of fire inspection deficiencies has been submitted to the fire safety code board of appeal and review, DCYF may grant a provisional license to terminate no later than thirty (30) days following the board's decision on said variance.

(9) A license under this chapter shall be granted to a school age child day care program without the necessity for a separate fire, building, or radon inspection, when said child day care program is conducted at a Rhode Island elementary or secondary school which has already been found in compliance with said inspections, provided that an applicant complies with all other provisions of DCYF regulations, or has been granted appropriate variances by the department.

Gen.Laws 1956, § 42-72.1-6

§ 42-72.1-6. Violations, suspensions and revocations of license

(a) When a licensee violates the terms of the license, the provisions of this chapter, or any regulation thereunder, the department may pursue the administrative remedies herein provided, in addition to other civil or criminal remedies according to the general laws.

(b) After notice and hearing, as provided by the Administrative Procedures Act, chapter 35 of title 42, the administrator may revoke the license, or suspend the license for a period not exceeding six (6) months.

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(c) During a suspension, the agency, facility or program shall cease operation.

(d) To end a suspension, the licensee shall, within thirty (30) days of the notice of suspension, submit a plan of corrective action to the administrator. The plan shall outline the steps and timetables for immediate correction of the areas of noncompliance and is subject to the approval of the administrator.

(e) At the end of the suspension, the administrator may reinstate the license for the term of the original license, revoke the license, issue a new license, or deny a reapplication.

(f) Upon revocation, the licensed agency, program or facility shall cease operation. The licensee whose license has been revoked may not apply for a similar license within a three (3) year period from the date of revocation.

Gen.Laws 1956, § 42-72.1-7

§ 42-72.1-7. Penalties for violations

(a) Any person who violates any of the provisions of this chapter, or any regulations issued pursuant to this chapter, or who shall intentionally make any false statement or reports to the director with reference to the matters contained herein, shall, upon conviction for the first offense, be imprisoned for a term not exceeding six (6) months or be fined not exceeding five hundred dollars (\$500), or both, and for a second or subsequent offense, shall be imprisoned for a term not exceeding one year or be fined not exceeding one thousand dollars (\$1000), or both the fine and imprisonment.

(b) Anyone who maintains or conducts a program, agency, or facility without first having obtained a license, or who maintains or conducts a program, agency, or facility after a license has been revoked or suspended, or who shall refuse to permit a reasonable inspection and examination of a program, agency, or facility, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500) for each week that the program, agency, or facility shall have been maintained without a license or for each refusal to permit inspection and examination by the director.

(c) Any individual, firm, corporation, or other entity who maintains or conducts a family day care home without first having obtained a registration certificate for the home, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100) for each week that the home shall have been maintained without a valid registration certificate.

(d) The department shall refer any violations to the attorney general's office for prosecution.

Gen.Laws 1956, § 42-72.1-8

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§ 42-72.1-8. Open door policy

There shall be an open door policy permitting any custodial parent or legal guardian to have access to a day care facility for any program when their child is in attendance.