

ARSD 67:42:01:01

67:42:01:01. Definitions.

Terms used in this article mean:

- (1) "Alternative care," care provided in family foster homes, group care centers for minors, group care centers meeting the qualifications of residential treatment centers as defined in § 67:42:08:01, independent living preparation programs, and intensive residential treatment centers;
- (2) "Applicant," an individual, agency, institution, or organization which submits to the department an application for a license as provided in this article;
- (3) "Case plan," a plan written in cooperation with a client which explains the client's social, psychological, medical, or economic problems, contains solutions to the problems, and describes the necessary steps and schedule to resolve the problems;
- (4) "Client," a person receiving assistance or service from the department;
- (5) "Department," the Department of Social Services;
- (6) "Employee applicant," an individual applying to a provider for employment;
- (7) "Facility," a family foster home, group care center for minors, residential treatment center, child placement agency, independent living preparation program, or intensive residential treatment center licensed under the provisions of this article;
- (8) "Household member," a person who uses a facility as a permanent or part-time residence and who may have contact with children placed in the facility;
- (9) "License," the document described in SDCL 26-6-15 which certifies that a provider meets applicable licensing standards contained in this article;

Administrative Rules of South Dakota Currentness _Department of Social Services (Articles 67:10 to 67:57) _Article 67:42 Regulatory Administration _Chapter 67:42:01 Provisions and Scope of Services

(10) “Provider,” an individual, agency, institution, or organization providing any of the services covered in this article;

(11) “Provider applicant,” an individual, agency, institution, or organization applying to be a provider under this article;

(12) “Staff member“ or “staff person,” an employee or volunteer of a facility; and

(13) “Volunteer applicant,” an individual applying to provide voluntary services for a provider.

ARSD 67:42:01:02

67:42:01:02. Application of chapter 67:42:01.

The provisions of chapter 67:42:01 apply to alternative care homes regulated by chapters 67:42:05; 67:42:07 to 67:42:09, inclusive; 67:42:13; and 67:42:15 unless otherwise specified.

ARSD 67:42:01:03 Repealed

67:42:01:03. Development of resources for Title XX services. Repealed.

ARSD 67:42:01:04. Repealed

67:42:01:04. Application for license or registration certificate. Repealed.

ARSD 67:42:01:05

67:42:01:05. Initial evaluation and approval -- Renewal of license.

The department’s initial evaluation of the applicant based on references includes reference checks, personal interviews, a screening for records of abuse or neglect, a criminal record check, and on-site visits. The applicant must provide three references.

Based on the evaluation, the department shall determine whether to issue a license. Renewal of a license is based on the department’s annual evaluation of the facility and care provided.

ARSD 67:42:01:05.01

67:42:01:05.01. Criminal record check.

Current through rules published in the South Dakota register dated June 2, 2014.

Administrative Rules of South Dakota Currentness _Department of Social Services (Articles 67:10 to 67:57) _Article 67:42 Regulatory Administration _Chapter 67:42:01 Provisions and Scope of Services

The department shall secure a criminal record check to obtain information concerning convictions for criminal offenses by a prospective foster parent as well as any other adult living in the prospective foster home. An individual is not eligible to receive a foster home license if the individual or any other adult living in the prospective foster home has a conviction for any of the following:

- (1) A crime that would indicate harmful behavior towards children;
- (2) A crime of violence as defined by SDCL 22-1-2 or a similar statute from another state;
- (3) A sex crime pursuant to SDCL chapters 22-22 or 22-24A or SDCL 22-22A-3 or similar statutes from another state; or
- (4) Within the preceding five years, a conviction for any other felony.

If an individual is seeking licensure from another child-placement agency, the department shall obtain the criminal record check for the child-placement agency if the child-placement agency is unable to obtain the record check on its own. If the criminal record check reveals a conviction for any of the crimes listed in this section, the department shall notify the child-placement agency of the existence of the conviction.

For all other child welfare agencies, the department shall review the provider's records to ensure that the criminal records are being secured to detect convictions for any of the crimes listed in this section.

ARSD 67:42:01:05.02

67:42:01:05.02. Screening for substantiated reports of abuse and neglect.

The department shall screen a provider applicant, family members and other household members who are at least ten years old, an employee of the facility, an employee applicant, a volunteer, and a volunteer applicant to determine if the individual has been involved in any substantiated incidents of child abuse or neglect. The individual may not have a substantiated report of child abuse or neglect. Substantiated reports of child abuse or neglect include reports placed into the department's central registry under § 67:14:39:03, reports placed on the central registry of another state, and reports that were investigated and substantiated by a tribal program.

If the screening locates an individual's name on the department's central registry and the individual has not already been given due process on the substantiation, the department shall notify the individual in writing that the individual may request a hearing to refute the accuracy of the information found. The hearing shall follow the provisions of SDCL 26-8A-11 and chapter 67:14:39.

If the screening locates an individual's name on the central registry of another state, it is the individual's

Current through rules published in the South Dakota register dated June 2, 2014.

Administrative Rules of South Dakota Currentness _Department of Social Services (Articles 67:10 to 67:57) _Article 67:42 Regulatory Administration _Chapter 67:42:01 Provisions and Scope of Services

responsibility to contact the other state to access the process for removal of his or her name from that state's central registry. If the other state has such a process and removes the individual's name from its central registry, the individual shall request the other state to submit documentation to the department verifying the removal of the individual's name from its central registry.

If the screening locates a report that was substantiated by a tribal program, it is the individual's responsibility to contact the tribal program to access the process for removal of his or her name from the record of the report. If the tribal program has such a process and removes the individual's name from the record of the report, the individual shall request the tribal program to submit documentation to the department verifying the removal of the individual's name from the record.

ARSD 67:42:01:05.03

67:42:01:05.03. Notice to facility.

The department shall notify the facility that the name of the facility's employee, employee applicant, volunteer, or volunteer applicant was located through the screening process when one of the following occurs:

- (1) Thirty days have lapsed since the department notified the individual that the name was located and the individual has not requested a review;
- (2) Thirty days have lapsed since a review was held which upheld the department's action and the individual has not requested a fair hearing;
- (3) A fair hearing was held and the decision upheld the department's action; or
- (4) A screening in a state other than South Dakota resulted in a finding as outlined in SDCL 26-6-23.1.

ARSD 67:42:01:06

67:42:01:06. Ability to provide care.

An applicant shall demonstrate the ability to provide care to a client which meets the client's intellectual, physical, social, and emotional needs. The applicant's ability is determined by the capacity to provide the following:

- (1) An understanding of, and encouragement and emotional support to, the client;

Administrative Rules of South Dakota Currentness _Department of Social Services (Articles 67:10 to 67:57) _Article 67:42 Regulatory Administration _Chapter 67:42:01 Provisions and Scope of Services

(2) Assistance to the client in coping with daily living experiences;

(3) Supervision of the client; and

(4) If working with children, an understanding of child development and appropriate use of discipline.

The applicant must also be able to participate with the department or a responsible party in devising and executing a case plan for a client.

ARSD 67:42:01:07

67:42:01:07. Physical health standards required of applicant and applicant's family.

An applicant for family foster care must have a physical examination. A physical examination completed within the 12 months preceding the date of the application is acceptable. The applicant may obtain the physical examination forms from the department. The forms must be completed by the attending physician, physician's assistant, or certified nurse practitioner and returned to the department.

The applicant shall also present evidence to the department that each household member under the age of 18 meets the Department of Health's requirements for immunizations against measles, mumps, and rubella (MMR); diphtheria, tetanus, and pertussis (DTP); Haemophilus Influenzae Type b (Hib); Hepatitis B (Hep B); and polio.

The department may request additional medical statements if a situation, such as a change in the health of the applicant or another household member, indicates that an additional medical statement is desirable.

ARSD 67:42:01:08 Repealed

67:42:01:08. Handicaps of applicant or provider. Repealed.

ARSD 67:42:01:09. Repealed

67:42:01:09. Validity of license or registration certificate. Repealed.

ARSD 67:42:01:10. Repealed

67:42:01:10. Limitations on combining types of care. Repealed.

ARSD 67:42:01:11. Repealed

67:42:01:11. On-site visits to determine compliance and evaluate activities. Repealed.

ARSD 67:42:01:12

67:42:01:12. Reporting of incidents or changes in circumstances.

Current through rules published in the South Dakota register dated June 2, 2014.

Administrative Rules of South Dakota Currentness _Department of Social Services (Articles 67:10 to 67:57) _Article 67:42 Regulatory Administration _Chapter 67:42:01 Provisions and Scope of Services

The provider shall report a change in circumstance that may affect the provider's ability to comply with the requirements of the provider's license or ability to provide adequate care. A change in circumstance includes items such as a change of address, a change in the household size, a change in the household composition, a change in the condition of the facility or home, or involvement with the Division of Child Protection Services or law enforcement concerning allegations of child abuse or neglect. The report must be made to the provider's licensing worker or agency within 24 hours after the change in circumstance occurs.

The provider shall immediately report all incidents of suspected child abuse or neglect either to the department or to law enforcement officials.

A family foster home, group care center for minors, residential treatment center, intensive residential treatment center, child placement agency, and independent living preparation program must report to the placing worker the occurrence of an unusual incident such as fire, death, client runaway, client/provider incompatibility, or serious injury to or serious illness of a client. The provider shall make the report to the placing worker immediately after ensuring that children in care are safe.

ARSD 67:42:01:13. Repealed

67:42:01:13. Civil rights. Repealed.

ARSD 67:42:01:14. Repealed

67:42:01:14. Provisional license or registration certificate -- Reasons for issuing -- Time limits. Repealed.

ARSD 67:42:01:14 Transferred

67:42:01:14.01. Transferred to § 67:42:01:14.

ARSD 67:42:01:15 Repealed

67:42:01:15. Renewal of family foster home license. Repealed.

ARSD 67:42:01:16

67:42:01:16. Denial of license.

The department may deny a license to an applicant based on an evaluation, substantiated by facts, showing that the applicant does not meet standards for care.

Within 120 days after application, the applicant must receive a written notice of approval or denial of a license. If the application is denied, the notice must include the reasons for the denial. An applicant may reapply after taking corrective action related to the reasons for the original denial of the license.

Current through rules published in the South Dakota register dated June 2, 2014.

Administrative Rules of South Dakota Currentness _Department of Social Services (Articles 67:10 to 67:57) _Article 67:42 Regulatory Administration _Chapter 67:42:01 Provisions and Scope of Services

ARSD 67:42:01:17. Repealed

67:42:01:17. Withdrawal of license or registration certificate. Repealed.

ARSD 67:42:01:18

67:42:01:18. Revocation of license.

Violation of the provisions of this article are grounds for revocation of a license. Before a license is revoked, the department shall give a 30-day's written notice of revocation to the provider and shall make a full disclosure of the reasons for revocation. The 30-day written notice is not required if the revocation is necessary to prevent danger to the life, health, or safety of a client.

The provider may not reapply for a license for at least one year after the date of revocation.

ARSD 67:42:01:19 Repealed

67:42:01:19. Receipt and investigation of complaint. Repealed.

ARSD 67:42:01:20

67:42:01:20. Fair hearing.

A provider applicant, an employee applicant, a volunteer, a volunteer applicant, or a provider is entitled to a fair hearing if aggrieved or dissatisfied with any action or inaction on the part of the department. Fair hearings are conducted under the provisions of chapter 67:17:02.

ARSD 67:42:01:21

67:42:01:21. Maintenance of records.

A record must be maintained by the provider on each client. That record must include the client's name, date of placement, date of removal, the names and telephone numbers of the client's social worker, doctor, dentist, parent, or person to contact in the event of an emergency, and any other information required by the department or desired by the provider.

ARSD 67:42:01:22

67:42:01:22. Confidentiality.

Administrative Rules of South Dakota Currentness _Department of Social Services (Articles 67:10 to 67:57) _Article 67:42 Regulatory Administration _Chapter 67:42:01 Provisions and Scope of Services

The files and records of the provider must be kept confidential. No information may be released from the files or records to anyone outside of the licensed facility unless written authorization for the release of information is obtained from parties that may be affected by this action. This may include the department, the provider, a client served by the provider, or legal representatives of any of the parties. The provider shall make its files and records available for inspection by the department for licensing purposes.

A provider shall maintain in confidence all information concerning a client. Details of a client's life or that of the client's family may not be shared with unauthorized individuals.

ARSD 67:42:01:23. Repealed

67:42:01:23. Location. Repealed.

ARSD 67:42:01:24

67:42:01:24. Transportation.

A vehicle used for transportation may not carry more people than its stated passenger capacity. Except when transporting children to and from school, the required staff-child ratio must be maintained when children are in transport.

ARSD 67:42:01:25 Repealed

67:42:01:25. Fire safety. Repealed.

ARSD 67:42:01:26 Repealed

67:42:01:26. Agency bylaws. Repealed.

ARSD 67:42:01:27 Repealed

67:42:01:27. Selection of governing board. Repealed.

ARSD 67:42:01:28. Repealed

67:42:01:28. Agency responsibility for building and equipment needs and funding. Repealed.

ARSD 67:42:01:29 Repealed

67:42:01:29. Responsibilities of the program director and/or executive director. Repealed.

ARSD 67:42:01:30 Repealed

67:42:01:30. Proprietary day care center's advisory board. Repealed.

ARSD 67:42:01:31 Repealed

67:42:01:31. Proprietary facilities—Financing of a facility. Repealed.

Current through rules published in the South Dakota register dated June 2, 2014.

Administrative Rules of South Dakota Currentness _Department of Social Services (Articles 67:10 to 67:57) _Article 67:42 Regulatory Administration _Chapter 67:42:01 Provisions and Scope of Services

ARSD 67:42:01:32 Repealed

67:42:01:32. Proprietary facilities—Financial records. Repealed.

ARSD 67:42:01:33. Repealed

67:42:01:33. Accounting system. Repealed.

ARSD 67:42:01:34

67:42:01:34. Annual audit.

Each group care center, residential treatment center, child placement agency, and intensive residential treatment center shall provide for an annual audit of its accounts by a certified public accountant who is not an employee of the facility, a member of the board of directors, or an employee of the department. The report of the audit must be made a part of the facility records.

ARSD 67:42:01:35

67:42:01:35. Insurance.

Each group care center, residential treatment center, intensive residential treatment center, and child placement agency shall carry liability insurance. Each vehicle used for transporting clients must have liability insurance that covers the clients being transported.

ARSD 67:42:01:36. Repealed

67:42:01:36. Final inspection reports -- Required posting. Repealed.

ARSD 67:42:01:37

67:42:01:37. Telephones.

Each home or facility must provide one working, nonpay telephone which can be used for general and emergency uses.