2014 Legislative Spotlight: Smoke-Free Child Foster Care
A Summary of the New Regulations

On May 21, 2014, Governor Mark Dayton signed into law new regulations to better protect the lives of all Minnesotans. Included within this new legislation are provisions that affect the child foster care environment.

Foster care provides a temporary home for children who cannot remain with their birth families. Considered "wards of the state," foster children depend on the state and local agencies to provide them with safe, stable, and heathy living environments. But, as foster children suffer a disproportionate number of chronic health conditions (including a high prevalence of respiratory illness), smoking at a foster home can conflict with a child's health needs. Fortunately, this new legislation will help protect the health of children living in foster care by minimizing their exposure to secondhand smoke.

Smoke-Free Environments

Child placement agencies will have a duty to ensure that children in foster care are protected from the effects of secondhand smoke and that licensed foster homes maintain a smoke-free environment. Under these new regulations, a child in foster care should not be exposed to any type of secondhand smoke in:

- A licensed foster home or other enclosed space connected to the home (such as a garage, porch, or deck).
- A motor vehicle while a foster child is being transported.
- Outdoor areas on the foster home premises when a foster child is present and is exposed to secondhand smoke.

The required home study assessment, used to evaluate the needs and capacities of foster families, will include a plan for maintaining a smoke-free environment. Foster parents who fail to provide a smoke-free environment will be asked to comply with a plan that includes training on the health risks associated with exposure to secondhand smoke. If a foster parent is unable to provide a smoke-free environment and that home environment is a health risk to a foster child, the agency must reassess whether the placement is in the child's best interest.

Though comprehensive in scope, there can be - as is often the case - exceptions. The general responsibility to provide a smoke-free foster environment will not delay the emergency placement of a child with a relative who can provide for the immediate health needs of the child. A child may be placed in a home where there may be exposure to secondhand smoke if the child's best interests would most effectively be served in that location. Finally, the need to provide a smoke-free environment will not interfere with any placement done pursuant to the federal Indian Child Welfare Act or the Minnesota Indian Family Preservation Act, or will not otherwise interfere with traditional or spiritual Native American or religious ceremonies that involve the use of tobacco.

Electronic Cigarettes

The Minnesota Clean Indoor Air Act (MCIAA), which generally prohibits the smoking of tobacco and other plant products in indoor public places and indoor places of employment, was amended to regulate or prohibit the use of electronic delivery devices - more commonly known as electronic cigarettes or e-cigarettes - in a number of locations, including any facility licensed by the Minnesota Department of Human Services (DHS).

As DHS is the ultimate licensing authority for foster care providers in Minnesota (with the assistance of county and private agencies), the use of electronic cigarettes in child foster homes is prohibited as well.

Effective Date

These new regulations are effective **July 1, 2014**.

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