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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

391 NAC 8

TITLE 391 CHILDREN'S SERVICES LICENSING

CHAPTER 8 CHILD-PLACING AGENCIES

001. SCOPE AND AUTHORITY. These regulations govern licensure of child-placing agencies. The regulations are authorized by Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 71-1924 to 71-1951.

002. DEFINITIONS. Definitions set out in Neb. Rev. Stat. §§ 71-1924 to 71-1951 and the following apply to this chapter:

002.01 ADOPTION. A judicial act creating between two persons certain relations, purely civil, of paternity and filiation.

002.02 ADOPTION DISRUPTION. Termination of an adoptive placement prior to the finalization of the adoption.

002.03 ADOPTIVE PLACEMENT. A type of placement that has not been finalized by a Decree of Adoption issued by a court of competent jurisdiction.

002.04 AGENCY. A licensed child-placing agency.

002.05 CHILD PLACEMENT. To coordinate, arrange, and approve the process of a child entering an unrelated home or facility to be cared for on a temporary, long-term, or adoptive basis.

002.06 COMPLETE APPLICATION. An application that contains all of the information requested on the Department approved application form, with attestation to its truth and completeness, and that is submitted with all required fees and documentation.

002.07 CONCURRENT ADOPTION. More than one adoption being processed simultaneously either through the same agency or multiple agencies.

002.08 CONFLICT OF INTEREST. Circumstances where the licensee or its staff would benefit personally or professionally from its or its staff's professional actions.

002.09 CURRENT REFERENCE. A reference dated within one year of the time of application.

002.10 EXECUTIVE DIRECTOR. The executive director, director, superintendent, president, chief executive officer, and similarly classified positions who is responsible for the daily operation of the agency.

002.11 FOREIGN COUNTRY ADOPTION. The placement of children emigrating from their country of origin for the purpose of adoption.

002.12 HOUSEHOLD. All persons who have significant in-home contact with the child, including those who have a familial or intimate relationship with any person in the home. A person is considered as a member of the household if the individual spends 50% or more of the individual's time in the home or if the home is the individual's only permanent residence.

002.13 INTERSTATE ADOPTION. Placement of a child into Nebraska from another state or United States jurisdiction or from Nebraska into another state or United States jurisdiction with a person(s) for the purpose of adoption

002.14 LICENSEE. Limited liability company, corporation, or nonprofit corporation to whom the license is issued.

002.15 MEDICALLY FRAGILE CHILD. A child whose chronic health or life threatening condition continually or unpredictably causes incidences that require monitoring.

002.16 PLACEMENT. The arrangement for the care of a child in a licensed or approved foster family or in a residential child-caring agency but does not include any institution caring for the mentally ill, developmentally disabled or any institution primarily educational in character, or any hospital or other healthcare facility.

002.17 PLACEMENT WORKER. A staff person employed by the agency who has the responsibility to effectuate the movement of a child into the home of a family who wishes to provide permanency for the child through adoption.

002.18 QUALITY IMPROVEMENT PROGRAM. A review of the services and outcomes of the services provided to applicants, families, and children and a procedure for tracking outcomes to determine if changes are needed to be made to the system to improve delivery of the services.

002.19 STAFF. A person employed by the licensee and who has direct contact or responsibility for children.

003. LICENSING REQUIREMENTS AND PROCEDURES. To receive a license, an applicant must submit a complete application and meet the requirements for a license set out in statute and in this chapter.

003.01 INITIAL APPLICATION REQUIREMENTS. An applicant must submit the following documentation:

- (A) Results of Child and Adult Abuse and Neglect Central Registry check, current within six months, for executive director;
- (B) Results of criminal history record checks current within six months for the executive director; and
- (C) Proof of adequate liability insurance or if self-insured of sufficient funds to pay liability claims.

003.02 RENEWAL APPLICATION REQUIREMENTS. An applicant must submit a complete application for renewal and meet the requirements for a license set out in statute and in this chapter. An applicant must submit proof of adequate liability insurance or if self-insured of sufficient funds to pay liability claims.

003.03 CHANGE OF OWNERSHIP. The new owner must apply for a license as required in this chapter.

004. GENERAL REQUIREMENTS. The following requirements apply to all licensees.

004.01 EFFECTIVE DATE AND TERM OF LICENSE. A child-placing agency license will expire on September 30 of each calendar year.

004.02 LICENSE NOT TRANSFERABLE. A license is issued only for the premises and person(s) named in the application and is not transferable or assignable.

004.03 ALTERNATIVE COMPLIANCE. To be considered for approval of a time-limited alternative compliance with a regulation, the proposed alternative must be consistent with the overall intent and purpose of the regulation and protect the health, rights, safety, and well-being of all children in care.

004.03(A) TERMS OF ALTERNATIVE COMPLIANCE. An alternative compliance may be granted:

- (i) To permit the applicant or licensee time to come into compliance; and
- (ii) For a period of time as determined by the Department.

004.03(B) WRITTEN REQUEST. A written request for alternative compliance must be submitted to the Department and include the following information:

- (i) The regulation for which alternative compliance is being requested;
- (ii) The reason for the alternative compliance request;
- (iii) A description of how the alternative will meet the intent of the regulation; and
- (iv) How the alternative will offer equivalent protection for all children.

004.03(C) REQUIREMENTS NOT QUALIFYING FOR ALTERNATIVE COMPLIANCE. Alternative compliance will not be granted for the following requirements:

- (i) Criminal history or background checks;
- (ii) Staff qualifications; and
- (iii) Any regulation for which a disciplinary action has been initiated or completed.

004.04 NOTIFICATION OF CHANGES. An amendment to the application must be submitted in writing to the Department:

- (A) At least 60 working days before the planned effective date for a change in or addition of:
 - (i) Location; or
 - (ii) Services the agency provides.
- (B) Within five working days of a change in executive director.

004.05 CONFLICT OF INTEREST. The licensee must ensure there is no conflict of interest when deciding whether or not to perform a home study, place a child, or supervise the

placement of a child with its own staff member, board member, or family member of a staff member, or board member for either foster care or possible adoption.

005. STANDARDS OF OPERATION AND CARE. The following requirements are applicable to all licensees.

005.01 RESPONSIBILITIES OF THE LICENSEE. The licensee of each agency must assume the responsibility for the total operation of agency. The licensee responsibilities include:

- (A) Monitoring and implementing policies to ensure the appropriate administration and management of the agency;
- (B) Ensuring the agency's compliance with all applicable state statutes and regulations;
- (C) Notifying the Department immediately of any issues of financial instability;
- (D) Designating an executive director who is responsible for the day to day management and defining the responsibilities of the executive director;
- (E) Ensuring the physical, mental, and psychosocial needs of all children cared for by the agency are met in accordance with each child's individualized needs; and
- (F) Ensuring the reporting of suspected abuse or neglect as required by Neb. Rev. Stat. §§ 28-372 and 28-711.

005.02 EMPLOYEE AND VOLUNTEER REQUIREMENTS. The licensee must maintain a sufficient number of staff with the required training and skills necessary to meet the needs of families and to meet the needs of children in the care of the licensee. The licensee must verify the current credentials, education, experience, and training of staff prior to staff assuming job responsibilities and contacting families or caring for children and must have procedures for verifying that current status is maintained. A volunteer must be directly supervised by staff when working with children and cannot be counted in ratio.

005.02(A) CRIMINAL HISTORY RECORD CHECKS. Prior to having contact with children and families the applicant or licensee must complete a pre-employment criminal history record check for each staff member and volunteer age 19 or older. If the agency is located in a private home a criminal history record check must also be completed for each household member age 19 and older. The check must be conducted through the Nebraska State Patrol or through one or more local law enforcement agencies, as appropriate to the individual's residence(s). If an individual has lived outside the state of Nebraska as an adult, the applicant or licensee must also obtain documentation of a criminal history record check from the previous state(s) of residence. Except for minor traffic violations, the licensee must notify the Department and request a criminal history record check within five working days any time the licensee becomes aware of any felony or misdemeanor citations, pending charges, or convictions, regarding licensee, staff, or volunteers. If the agency is located in a private home such notification must also be made for household members age 19 and older. Individuals employed prior to the effective date of these regulations will not be disqualified based upon previous criminal history. Any criminal history occurring after the effective date of these regulations will be considered. Applicants and licensees may not have owners that have convictions that would disqualify them to be a licensee, staff member, or household member.

005.02(A)(i) PERMANENT DISQUALIFICATION. An individual or entity is permanently disqualified from holding a license, residing in an agency, or working as

a staff member or volunteer if the individual or entity has a criminal history including conviction of any unlawful act endangering the health or safety of another individual. Such convictions include crimes: against a child or vulnerable adult, involving intentional bodily harm, or involving moral turpitude on the part of the individual or entity. These crimes include but are not limited to:

- (1) Aggravated or armed robbery;
- (2) Assault, first or second degree;
- (3) Child abandonment;
- (4) Child abuse or neglect;
- (5) Child molestation or debauching a minor;
- (6) Commercial sexual exploitation of a minor;
- (7) Felony domestic violence or violation of custody;
- (8) Felony exploitation of a minor involving drug offenses or conviction of drug offenses that involved a minor;
- (9) Felony controlled substances offenses, other than possession;
- (10) Human trafficking;
- (11) Incest;
- (12) Kidnapping;
- (13) Murder, first or second degree;
- (14) Sexual abuse of a minor;
- (15) Sexual assault;
- (16) Sexual exploitation of a minor, including child pornography; or
- (17) Voluntary manslaughter.

005.02(A)(ii) TWENTY-YEAR DISQUALIFICATION. An individual or entity is disqualified for 20 years from holding a license, residing in an agency, or working as a staff member or volunteer if the individual or entity has a criminal history that includes, but is not limited to, conviction of:

- (a) Arson;
- (b) Assault, third degree, two or more convictions;
- (c) Burglary, two or more convictions;
- (d) Criminal non-support;
- (e) Driving under the influence, four or more convictions;
- (f) Felony fraud, forgery, or theft;
- (g) Felony possession of controlled substance offenses;
- (h) Felony vehicular homicide;
- (i) Felony terrorist threats;
- (j) Misdemeanor domestic violence or violation of custody; or
- (k) Robbery.

005.02(A)(ii)(1) DISQUALIFICATION TIMEFRAME. The disqualification period begins the date the conviction became final. Any time an individual or entity is completing the sentence is not included in the calculation of the disqualification period. An individual or entity is disqualified during the time the individual or entity is completing the sentence.

005.02(A)(iii) FIVE-YEAR DISQUALIFICATION. An individual or entity is disqualified for 5 years from holding a license, residing in an agency, or working as a staff member

or a volunteer if the individual or entity has a criminal history that includes, but is not limited to, conviction of:

- (a) Assault, third degree;
- (b) Burglary;
- (c) Contributing to the delinquency of a minor;
- (d) Driving under the influence, two convictions;
- (e) Felony insufficient fund or no account check writing;
- (f) Felony criminal possession or unauthorized use of a financial transaction device;
- (g) Felony identity fraud or theft;
- (h) Misdemeanor controlled substances offenses;
- (i) Misdemeanor failure to report child abuse
- (j) Misdemeanor fraud, forgery, or theft;
- (k) Misdemeanor terroristic threats;
- (l) Misdemeanor vehicular homicide; or
- (m) Public indecency.

005.02(A)(iii)(1) DISQUALIFICATION TIMEFRAME. The disqualification period begins the date the conviction became final. Any time an individual or entity is completing the sentence is not included in the calculation of the disqualification period. An individual or entity is disqualified during the time an individual or entity is completing the sentence.

005.02(A)(iv) OTHER COMPLAINTS, INDICTMENTS, AND CONVICTIONS. The Department may determine that an individual or entity may hold a license or work as a staff member or a volunteer with a pending complaint, indictment, or conviction of other crimes if the Department determines the individual or entity has the present character and fitness to work with children. In making this determination the Department may consider the following factors:

- (1) The age of the individual at the time of the conduct;
- (2) The recency of the conduct;
- (3) The seriousness of the conduct;
- (4) The factors underlying the conduct;
- (5) The cumulative effect of the conduct;
- (6) The evidence of rehabilitation;
- (7) The individual's positive social contributions since the conduct;
- (8) The individual's honesty in providing information; and
- (9) The materiality of any omissions or misrepresentations.

005.02(A)(v) PARENTAL RIGHTS TERMINATED. An individual is permanently disqualified from holding a license, residing in an agency, or working as a staff member or volunteer if the individual has had his or her rights as a parent terminated by a Court because of a finding of abuse or neglect of a child or inability to care for a child.

005.02(B) REGISTRY CHECKS. The applicant or licensee must complete a pre-employment registry check on each staff member, volunteer, and each household member who resides at a location where the licensee will provide services, appropriate to the age of the individual. If an individual has lived outside the state of Nebraska as an adult then

the applicant or licensee must obtain pre-employment registry check from the United States jurisdictions where the individual resided. Any individual who is listed as a perpetrator on any of the registries must not be a staff, volunteer or household member. The following registries must be checked:

- (i) Nebraska Child Abuse and Neglect Central Registry, if the individual is age 13 or older;
- (ii) Nebraska Adult Protective Services (APS) Central Registry if the individual is age 18 or older;
- (iii) State Patrol Sex Offender Registry if the individual is age 18 or older.
- (iv) Equivalent registries to those in (i) through (iii) in other states and United States jurisdictions must be checked for individuals who have lived outside of the state of Nebraska as an adult.

005.02(C) INDIVIDUAL UNDER INVESTIGATION FOR CHILD ABUSE OR NEGLECT OF A CHILD OR VULNERABLE ADULT. Any individual who is under investigation for abuse, neglect, or sexual abuse of a child or vulnerable adult must not be left alone with children until the investigation is completed and the findings are determined.

005.03 EMPLOYEE QUALIFICATIONS. All staff and volunteers must be of good moral character and not engage in or have a history of behaviors injurious to or which may endanger the health or morals of children and meet the following qualifications. Staff employed as an executive director, program director, placement supervisor, or placement worker prior to the effective date of these regulations are deemed to be in compliance with education and experience requirements.

005.03(A) EXECUTIVE DIRECTOR. The executive director must meet one of the following education and experience requirements:

- (i) Have a master's degree in social work, counseling, business, public administration, education, or a related human service; or
- (ii) Have a bachelor's degree and five years of experience in social work, counseling, business, public administration, education, or a related human service.

005.04(B) PROGRAM DIRECTOR REQUIRED. If the executive director is not on site or is on site but not providing direct oversight of the day to day operations of the program then the agency must employ a program director who:

- (i) Has a master's degree in social work, counseling, business, public administration, education, or a related human service; or
- (ii) Has a bachelor's degree and three years of experience in social work, counseling, business, public administration, education, or a related human service.

005.04(C) PLACEMENT SUPERVISOR. An individual who supervises staff who make placements of children must:

- (i) Have a master's degree in social work, counseling, or a related human service; or
- (ii) Have a bachelor's degree in social work, counseling, or a related human service with two years of experience in a human service related field;

005.04(D) PLACEMENT WORKER. A placement worker must be supervised by a placement supervisor and have a bachelor's degree in social work, counseling, or a related human service field.

005.05 RECORDS. Records of all employees and volunteers must be kept during the period an individual is employed or used by the agency and for a minimum of two years after the separation of the employee or volunteer. A current record for each staff person or volunteer must be maintained at the facility where the employee or volunteer is assigned or be made available upon request by the Department.

005.05(A) EMPLOYEE RECORDS. Each record for an employee must include documentation of all of the following:

- (i) Name;
- (ii) Address and telephone number;
- (iii) Results for registry checks;
- (iv) Results of criminal history record check;
- (v) Date of assuming job responsibilities;
- (vi) Pre-service training;
- (vii) Statement that the employee has read and understands these regulations;
- (viii) Education;
- (ix) Social security number;
- (x) Dates of hire and termination;
- (xi) Job title and job description;
- (xii) In-service training;
- (xiii) Annual performance evaluation; and
- (xiv) Any disciplinary action taken or work improvement plans.

005.05(B) VOLUNTEER RECORDS. Each record for a volunteer must include documentation the required in 391 Nebraska Administrative Code (NAC) 005.05(A)(i) through (iv) and of the following:

- (i) Start date;
- (ii) A written schedule that includes the hours and days of the week the individual serves as a volunteer; and
- (iii) Training completed on the child-placing agency's policies and procedures.

005.06 EMPLOYEE TRAINING. Written documentation of the completion of all training for each employee must be available for the Department to review and must include:

- (1) Name of employee;
- (2) Name of the training;
- (3) Date the training was completed; and
- (4) Number of hours each training took to complete.

005.06(A) PRE-SERVICE TRAINING. Staff must complete 30 hours of pre-service training prior to a staff person having direct responsibility for services. The training must include:

- (i) Job duties and responsibilities;
- (ii) Policies and procedures specific to job duties;
- (iii) Child-placing agency policies and procedures;
- (iv) Child rights;

- (v) Confidentiality of client's records and client's medical information;
- (vi) Child service plans;
- (vii) Information on any physical and mental special care needs of the children;
- (viii) Information on statutes regarding abuse and neglect, reporting procedures;
- (ix) Crisis management; and
- (x) Trauma informed care.

005.06(B) ON-GOING TRAINING. Each staff must obtain 20 hours of training annually related to the skills necessary to care for and place children.

005.06(B)(i) ACTIVITIES COUNTED AS TRAINING. Training activities must be directly related to the skills necessary to care for children and may be counted on an hour-for-hour basis. Study of written material may be counted as one training hour per 50 pages of written material.

005.07 THE CHILD'S RIGHTS. The licensee must establish a Bill of Rights that will be equally applicable to all children. The licensee must protect and promote these rights and afford children the opportunity to exercise their rights. The child and parent or legal guardian must be given a copy of the Bill of Rights before the licensee provides services to the child, including adoption. The Bill of Rights must address that each child has the right to:

- (A) Receive services provided by the agency;
- (B) Participate in the planning of the child's care and receive instruction and education regarding the plan;
- (C) Request information regarding the child's care as age and developmentally appropriate;
- (D) Receive services without discrimination as to race, color, creed, age, or national origin;
- (E) Have contact with family, friends, and other persons significant to the child;
- (F) Exercise religious beliefs or cultural traditions;
- (G) Access educational services;
- (H) Be accepted for services only if the agency has the ability to provide safe and professional care;
- (I) Personal privacy and confidentiality of all records, communications, and personal information;
- (J) Receive policies and procedures for admission, discharge, and termination of services at the time of admission;
- (K) Voice complaints or grievances, including to outside agencies, and suggest changes in services or staff without fear of reprisal or discrimination and be informed of the resolution;
- (L) Be free from verbal, physical, psychological, sexual abuse or harassment and to be treated with dignity;
- (M) Expect all efforts will be made to ensure continuity and quality of care;
- (N) Have the child's person and property treated with respect;
- (O) Be informed, in advance, about the care to be furnished, and any changes in the care to be furnished;
- (P) Be free from chemical and mechanical restraints except as part of a drug or medication ordered as part of the child's individual treatment plan; and

- (Q) Have the opportunity to participate in community activities appropriate to age and cultural heritage, and interests.

005.08 COMPLAINT PROCESS. The licensee must allow staff, children, parents, guardians, and others to submit complaints or grievances to the licensee. Written policies and procedures must be established and implemented by the licensee to address and document complaints or grievances received and include:

- (A) A procedure for submission of complaints that is made available to staff, children, parents, guardians, and others;
- (B) Time frames and procedures for review of complaints and provision of responses to address complaints;
- (C) A description of how information from complaints and responses is used to improve the quality of care and services for children; and
- (D) A method to ensure that the telephone number of the Nebraska Child Abuse and Neglect Hotline and the child's parent, guardian or other legal custodian is readily available to children, employees, and others who wish to lodge complaints.

005.09 PROGRAM DESCRIPTION. The licensee must ensure that a written description of the type of services provided is available to staff, children, parents, guardians or their designees, foster parents, adoptive applicants, and members of the public and includes:

- (A) Ownership;
- (B) The goals and objectives of the agency;
- (C) The description of the children to be served, including age, gender, care needs, and any other relevant characteristics;
- (D) Foster care services both licensed and approved;
- (E) Independent and transitional living services;
- (F) Adoption services, both foreign and domestic;
- (G) The composition of staff and their qualifications; and
- (H) The job responsibilities of staff.

005.10 QUALITY ASSURANCE AND IMPROVEMENT. The licensee must develop and implement a written quality assurance and improvement plan with input from staff, children, parents, guardians and other community partners. The plan must be reviewed and updated annually and describe:

- (A) How feedback will be utilized to improve services; and
- (B) Methodology for monitoring, evaluating, and improving services.

005.11 TRANSPORTATION. When transportation is provided by the licensee the following requirements must be met:

- (A) Any individual who transports children must possess a current and valid driver's license;
- (B) Smoking is not permitted in any vehicle when transporting children;
- (C) No vehicle may be used to transport more passengers than the seating capacity of the vehicle, as indicated by the manufacturer, allows;
- (D) Any vehicle used to transport children must:
 - (i) Be operable and properly maintained;
 - (ii) Be clean and free of hazards;
 - (iii) Be registered;

- (iv) Be insured;
- (v) Be equipped with a first aid kit; and
- (vi) Have doors locked at all times when in motion;
- (E) Children being transported must:
 - (i) Not be left alone in a vehicle at any time if under 14 years of age;
 - (ii) Be adequately supervised at all times. Staff-to-child ratio must be maintained;
 - (iii) Be properly secured in an appropriate restraint system;
 - (iv) When required, be in car seats that:
 - (1) Meet federal standards;
 - (2) Are the correct type for the child's age and developmental level; and
 - (3) Are properly secured; and
 - (v) Be school age or older when transported in buses over 10,000 pounds that are not equipped with restraint systems.

005.11(F) TRANSPORTATION POLICIES AND PROCEDURES. The licensee must establish and implement written policies and procedures that ensure that transportation requirements are met and that also include:

- (i) Emergency procedures in the event a child becomes ill, the vehicle breaks down or is involved in an accident, or other emergencies; and
- (ii) The presence of other passengers besides staff and children in the vehicle.

005.12 FOSTER CARE SERVICES. The licensee must provide support to licensed and approved foster homes to ensure such homes meet the requirements of Title 395 NAC and in accordance with the following:

005.12(A) PLACEMENT OF A CHILD. When placing a child, the licensee must:

- (i) Prior to placement give the foster parent all available information regarding the child in writing;
- (ii) At the time of placement or immediately thereafter give the foster parent:
 - (1) A placement agreement that is signed by the foster parent and the licensee.
 - (2) A consent for the foster parent to obtain medical care and treatment for the child that is signed by the child's parent or legal guardian.
 - (3) A payment agreement that is completed and signed by the foster parent and the licensee.

005.12(B) SUPERVISION OF A CHILD. For all children entering care the licensee must ensure and have documentation of the following:

- (i) The child must:
 - (1) Have complete medical, dental, and vision exams at a minimum as recommended by the American Association of Pediatrics;
 - (2) Receive immediate medical, dental, and vision care when an emergency arises;
 - (3) Be current on all immunizations unless there is a statement or affidavit meeting the requirements in Neb. Rev. Stat. § 79-221 in the child's record; and
 - (4) Receive necessary treatment for any medical or mental health care needs;
- (ii) A child age six and older who has not obtained a high school diploma or a high school equivalency diploma must be enrolled in an educational program; and

- (iii) The licensee must visit each foster home at least monthly to observe the interaction of the foster children with the foster parent and to generally assess the safety of the home.

005.12(C) DISCHARGE OF A CHILD FROM PLACEMENT. When discharging a child from a placement, the licensee must:

- (i) Involve the child in the development of the discharge plan;
- (ii) Provide information to the parent, legal guardian, and next care provider necessary to meet the needs of the child;
- (iii) Have written reports of the child's progress while in care which include the following:
 - (1) Educational information including grade reports, scholastic achievement, and social adjustment;
 - (2) Medical reports;
 - (3) Reports of psychological and psychiatric examination and testing;
 - (4) Reports of family contact and visitation; and
 - (5) A current inventory of the child's personal items. Such inventory must be updated at least yearly or each time there is a change in inventory;
- (iv) Complete a service delivery plan within 30 days of admission. Such plan must be updated quarterly while the child is in care;
- (v) As appropriate, provide counseling and assistance for the parent or guardian, foster parent and foster child in preparation for the end of placement; and
- (vi) Discharge a child only at the direction of the legal custodian or court authority.

005.12(D) CHILD RECORD. All records are confidential and must be maintained by licensee for each child while the child is in foster care placement and a minimum of three years after foster care has been terminated and the records must include:

- (i) Original intake information;
- (ii) An agreement signed by the parent or legal guardian authorizing the licensee to place the child in foster care;
- (iii) Medical consent for necessary medical and surgical care;
- (iv) Information about legal custody and responsibility for the child or a copy of the approved Interstate Compact on the Placement of Children (ICPC) agreement;
- (v) Information about the child's progress while in care;
- (vi) Educational information including grade reports, scholastic achievement, and social adjustment;
- (vii) Medical, dental, and vision records including examinations, immunizations, illnesses, and follow-up treatments;
- (viii) Psychological or psychiatric testing, examination, and follow-up treatment, if obtained;
- (ix) Information about visits with the child and contacts with the child's own family and services provided or arranged;
- (x) Copy of the service delivery plan for the child;
- (xi) An inventory of the child's personal items that is signed and dated by:
 - (1) The child, as age and developmentally appropriate; and
 - (2) A licensee representative or foster parent; and
- (xii) Payment agreement for placements in foster care.

005.12(E) FOSTER PARENT(S) RECORD. Licensee must have a separate record for each foster care home supported by the licensee. The records must be retained during the time the home is supported and for a minimum of three years after the expiration of the last license or discharge from the licensee and the records must include:

- (i) The application;
- (ii) A copy of the license or approval for foster care issued by the Department;
- (iii) Three references;
- (iv) Results of background checks of the foster parent and all other members of the household, as appropriate to age, including:
 - (1) The Nebraska Child Abuse and Neglect Central Registry and of any similar registry for every state and United States jurisdiction in which the individual has lived within the past five years;
 - (2) The Nebraska Adult Protective Services (APS) Central Registry and of any similar registry for every state and United States jurisdiction in which the individual has lived within the past five years;
 - (3) Local law enforcement agency for individuals 18 or older;
 - (4) State Patrol Sex Offender Registry for any state and United States jurisdiction in which the individual has lived for the past five years for individuals 18 or older;
 - (5) State-level criminal history for individuals 18 or older; and
 - (6) Finger-print based National Criminal History Check with the Identification Division of the Federal Bureau of Investigation for individuals 18 or older;
- (v) Health information report;
- (vi) Home study;
- (vii) Reports of visits to the home;
- (viii) Training records; and
- (ix) Corrective action plans and complaints.

005.13 ADOPTION SERVICES. The licensee must have written policies and procedures which it implements to ensure compliance with this chapter for each of the services the licensee intends to provide which may include any or a combination of the following:

- (1) Services to birth parents;
- (2) Acceptance of relinquishment from birth parents;
- (3) Recruitment, screening, and training of adoptive applicant;
- (4) Home studies;
- (5) Placement of children;
- (6) Supervision of placements;
- (7) Finalization of adoption;
- (8) Post-adoption services; and
- (9) Foreign adoptions.

005.13(A) SERVICES NOT PROVIDED. The licensee must indicate in writing and have available for review, a list of the services the licensee does not provide.

005.14 SERVICES TO BIRTH PARENT(S). The licensee must ensure that any parent approaching the licensee with an interest in the possible relinquishment of a child for the purpose of adoption is provided the following information in a manner and language that is easily understood by the parent:

- (A) Types of adoption services the licensee provides;
- (B) Whether the birth or legal parent is required to sign a contract or agreement with the agency;
- (C) The ability to receive a copy of any document signed;
- (D) That only pregnancy related expenses may be paid to a birth parent. All payments made on behalf of a birth parent must be processed through the agency;
- (E) Where to obtain:
 - (i) A list of all licensed agencies that provide adoption services in Nebraska;
 - (ii) Information as to how to review the official licensing file for the agency;
 - (iii) Information as to how to file a complaint regarding the licensee with the Department; and
 - (iv) The regulation governing child-placing agencies;
- (F) The ability to seek independent legal counsel on any issue related to the relinquishment of a child;
- (G) How parental rights are relinquished in Nebraska, including the requirements in Neb. Rev. Stat. § 43-104 and Neb. Rev. Stat. § 43-104.09;
- (H) Information about whether the birth parent have the ability to choose the adoptive family;
- (I) Information about consenting and refusal to consent to release of health information or information about the relinquishing parent.
- (J) Process of record storage and maintenance in the event of closure of the agency; and
- (K) The process for sharing available information regarding the child and the birth family.

005.15 ACCEPTANCE OF RELINQUISHMENT. A licensee having legal custody is responsible for the welfare of the child until a decree of adoption is granted and must:

- (1) Assume financial and planning responsibility for the child:
 - (a) In the event that a child's adoptive placement is disrupted; or
 - (b) When a court refuses to grant a decree of adoption; and
- (2) Maintain a copy of the final decree of adoption from the court in the agency file.

005.15(A) CHILD AVAILABLE FOR ADOPTION. The licensee must obtain, maintain, and document the following information for each child available for adoption:

- (i) The reason for relinquishment or termination of the parent-child legal relationship;
- (ii) A complete and current history of the child which includes:
 - (1) Race;
 - (2) Ethnicity;
 - (3) Nationality;
 - (4) Indian Tribe, when applicable; and
 - (5) Other cultural history of biological parent when available;
- (iii) A history of the child including as much of the following information as can be obtained:
 - (1) Physical appearance;
 - (2) Emotional, behavioral, medical, and cognitive history;
 - (3) Religion;
 - (4) Education;
 - (5) Interest, hobbies, and talents;
 - (6) Developmental history;

- (7) Region of origin, if applicable;
- (8) Placement history; and
- (9) Any previous written assessments;
- (iv) A social history of the child's birth family including birth parent, extended family and siblings as applicable, including as much of the following information as can be obtained:
 - (1) Health and medical history as required by Neb. Rev. Stat. § 43-107;
 - (2) Physical appearance;
 - (3) Race or ethnic origin;
 - (4) Religious affiliation;
 - (5) Education;
 - (6) Occupation;
 - (7) Hobbies, interests, and talents;
 - (8) Mental health history; and
 - (9) Substance use or abuse history;
- (v) Services offered to the birth parent;
- (vi) Voluntary relinquishment or court termination of parental rights;
- (vii) Agency consent to the adoption;
- (viii) Adoption Decree;
- (ix) Medical and dental information about the child while in the custody of licensee;
- (x) Reports of psychological tests, development tests, psychological or psychiatric examination, and follow-up treatment if obtained for the child;
- (xi) The placement agreement;
- (xii) The service delivery plan for the child; and
- (xii) Agency supervision of the child.

005.16 RECRUITMENT, TRAINING, AND SCREENING OF ADOPTIVE APPLICANTS. The licensee must not deny any person the opportunity to apply to become an adoptive parent.

005.16(A) INFORMATION PROVIDED TO APPLICANT. The licensee must have all applicants sign a statement affirming receipt of the following information prior to signing the adoptive service contract or agreement:

- (i) A description of the services the licensee provides;
- (ii) The ability to receive a copy of any document signed;
- (iii) The philosophical perspective or religious affiliation, or both of the licensee;
- (iv) Where to obtain:
 - (1) The status of the child-placing license for the agency;
 - (2) A list of all licensed child-placing agencies in Nebraska;
 - (3) Information as to how to review the official licensing file for the agency;
 - (4) Information as to how to file a complaint regarding the agency with the Department or its successor; and
 - (5) Information as to how to obtain the regulations regarding child-placing agencies in Nebraska;
- (v) The ability to seek independent legal counsel on any issue related to adoption;
- (vi) To the greatest extent possible, the average time frame for the services provided, including the adoption home study and finalization of the adoption;
- (vii) The description of required training for adoptive parents;

- (viii) The process of sharing available information regarding the child and the birth family in accordance with Nebraska statute;
- (ix) Information regarding notices of consent and non-consent as provided in Neb. Rev. Stats. §§ 43-121 through 43-134;
- (x) Any policy that would result in the denial of services or would preclude placement of a child with an adoptive family;
- (xi) The grievance and appeal process of the licensee;
- (xii) Post-adoption services offered or required by the licensee;
- (xiii) The process for record storage and maintenance in the event of closure of the agency;
- (xiv) Any service offered by the licensee which is provided by another, entity, or individual;
- (xv) The licensee's policy on concurrent adoptions;
- (xvi) Information that pregnancy related expenses may be paid to a birth parent and all payments made on behalf of a birth parent must be processed through the agency; and
- (xvii) If applicable, the requirement of the licensee to collect fees and submit court documents after the completion of a foreign country adoption to validate the adoption in a United States court.

005.16(B) WRITTEN CONTRACT OR AGREEMENT. Prior to accepting any application the licensee must ensure each applicant is provided a written contract or agreement which includes the following:

- (i) A fee schedule that includes:
 - (1) Expected itemized fees;
 - (2) Expected itemized expenses;
 - (3) Potential additional expenses; and
 - (4) Post-finalization fees if included in the cost of the adoption;
- (ii) An explanation of the conditions under which fees or expenses will be charged, waived, or refunded; and
- (iii) An explanation of when and how fees and expenses must be paid.

005.16(C) APPLICATION. The adoptive parent or applicant must submit to the licensee a completed, dated, and signed formal application for adoption, including a signed fee agreement and disclosure statement.

005.16(D) TRAINING. Reasonable efforts must be made by the applicant to complete all required training prior to or within 90 days of the placement of children for adoption. All training must be documented in writing, including dates, number of clock hours and topics covered. All applicants must complete:

- (1) 16 core hours of training provided in reading, face to face or web-based format;
- (2) Additional training requirements in this chapter if applicable; and
- (3) Training separate from and in addition to the family assessment process.

005.16(D)(i) CORE TRAINING REQUIREMENTS. Core training must include:

- (1) Attachment and bonding issues;
- (2) Loss and grief issues, as applicable for all parties to the adoption;
- (3) Adoption as a lifelong issue as it pertains to all parties to the adoption;

- (4) Key concepts of child growth and development;
- (5) Boundary setting and discipline;
- (6) Parenting a child of different cultural or racial background infancy through adulthood, if applicable;
- (7) Disclosure issues including the accuracy of family history information regarding the child and birth parent's family, discussion with the child and sharing information with others;
- (8) Adoption laws and procedures, including termination of parental rights;
- (9) On-going contact and communication of a child and adoptive family with biological family and significant individuals, if applicable;
- (10) Possible current and future use of community resources, including help with parenting techniques;
- (11) Medical and health issues including, but not limited to, shaken baby syndrome, parental substance abuse, relevant environmental issues, and genetic risk factors, if applicable;
- (12) Expectations of adoption and adoptive process; and
- (13) Supervision appropriate to the age of the child.

005.16(D)(ii) CORE TRAINING NOT REQUIRED. If an adoptive applicant is completing a subsequent adoption through the same agency or has completed documented training from his or her previous agency, and that training was completed within the last five years, core training need not be repeated if documentation of the prior training is on record with the current agency.

005.16(D)(iii) ADDITIONAL TRAINING REQUIRED FOR MEDICALLY FRAGILE CHILD OR OVER AGE 12 MONTHS. For applicant who will be adopting a child who is either medically fragile, or over 12 months of age four additional hours of training from the following topics must be completed as applicable and appropriate for the age of the child being adopted for a total of 20 hours. These four hours may be in face-to-face or web-based format:

- (1) Parenting a child that has been abused or neglected;
- (2) Parenting a physically, mentally, developmentally, or emotionally delayed child; and
- (3) The impact of frequent moves and multiple caregivers on the development of a child.

005.16(E) BACKGROUND CHECKS. The licensee must have background checks on the applicant and all other members of the household, as appropriate to age, including:

- (i) The Nebraska Child Abuse and Neglect Central Registry and of any similar registry for every state and United States jurisdiction in which the individual has lived within the past five years for individuals 13 or older;
- (ii) The Nebraska Adult Protective Services (APS) Central Registry and of any similar registry for every state and United States jurisdiction in which the individual has lived within the past five years for individuals 13 or older;
- (iii) Local law enforcement agency for individuals 18 or older;
- (iv) State Patrol Sex Offender Registry for every state and United States jurisdiction in which the individual has lived for the past five years for individuals 18 or older;
- (v) State-level criminal history for individuals 18 or older; and

- (vi) Finger-print based National Criminal History Check with the Identification Division of the Federal Bureau of Investigation for individuals 18 or older.

005.16(F) HEALTH INFORMATION. The licensee must obtain for each household member of the age of majority who will provide care, including each applicant, health information to document that the individual is physically and mentally capable of caring for children.

005.16(G) REFERENCES. The applicant must provide a minimum of three positive, written personal references from individuals, two of which must be unrelated to the applicant, that have knowledge of the applicant's character and suitability to parent a child as well as a reference from the employer of the applicant.

005.16(H) HEALTH INSURANCE COVERAGE. The applicant must provide written verification of current health insurance coverage for the child or verification that the coverage for the child will be available, obtained, and maintained during placement.

005.16(I) APPLICANT RECORD. A separate record for each adoptive home must be kept and include:

- (i) Documentation to show compliance with this chapter;
- (ii) A copy of the marriage license of applicants, if applicable;
- (iii) Documentation of the home study as required by this chapter; and
- (iv) Documentation of the finalization of an adoption, unless the adoption was finalized in a foreign country.

005.16(J) DISCONTINUATION OF SERVICES. The licensee must notify the adoptive applicant in writing within five business days of the reason for the discontinuation of services or to confirm the applicant's request to withdraw from services. At the time of notification, an applicant must be advised, in writing, of the agency's process for filing a grievance.

005.17 ADOPTIVE HOME STUDY. The licensee must complete a home study for each applicant for adoption. The home study must include interviews and documentation about the applicant and the proposed home environment.

005.17(A) INTERVIEWS. The licensee must conduct face-to face interviews for not less than a total of six hours which include:

- (i) Two interviews with a single applicant to be conducted on separate days or three joint interviews with a couple to be conducted on separate days;
- (ii) One individual interview with each member of the household including, in an age and developmentally appropriate manner, any children who reside in the home; and
- (iii) One interview in the applicant's home.

005.17(B) DOCUMENTATION OF HOME STUDY. The home study document must be completed on the licensee's letterhead and include:

- (i) Demographic information of the applicants;
- (ii) Home study author information and agency affiliation;

- (iii) Summary of the applicant and household members throughout the process of approving or licensing the home;
- (iv) All the information required in 391 NAC 8-005.16 and its subparts;
- (v) Description of applicant's family background;
- (vi) Description of current family composition;
- (vii) Employment, education, and military service;
- (viii) Current living arrangements and a description of home;
- (ix) Assessment of the applicant's financial stability and ability to provide for an additional child in the home;
- (x) Summary of information reported in the references;
- (xi) Identification of the family's strengths and needs and recommendations to address those;
- (xii) A recommendation of approval or disapproval; and
- (xiii) Signature of the author and an agency supervisor or administrator.

005.17(C) APPLICANT(S) REVIEW. At the conclusion of the home study process, the licensee must offer the applicant an opportunity to review the home study and submit corrections to the licensee of any inaccuracies contained in the home study. The applicant must either:

- (i) Sign a statement that the applicant has been given the opportunity to read and review the final draft of the home study, excluding the confidential references, or
- (ii) Sign the home study section indicating the applicant has read and reviewed the final draft of the home study.

005.17(D) RELEASE. The adoptive home study may be released by the licensee with the written authorization of the applicant and legal custodian of a child if named in the home study. Names of children, other than the applicant's own children, must be redacted.

005.17(E) ANNUAL UPDATE. The home study documentation must be on agency letterhead and updated annually until the adoption is finalized. The documentation must include:

- (i) At least one face-to-face visit to the home of the applicant;
- (ii) A review of the current health information of the applicant;
- (iii) Information regarding any child abuse investigations related to the applicant during the previous year;
- (iv) Information about any changes in residence, marital status, criminal history, finances, or addition or deletion of family members; and
- (v) Background checks as described in this chapter.

005.17(F) ADDENDUM. An addendum to the previously completed adoption home study must be completed by the agency when any of the following events occur:

- (i) Criminal charges or convictions;
- (ii) Child abuse investigations;
- (iii) Change in marital status;
- (iv) Change in family structure;
- (v) Significant change in employment and financial resources;
- (vi) Significant change in health status;
- (vii) Change in place of residence; or

- (viii) Other significant changes within the family.

005.18 PLACEMENT OF A CHILD FOR ADOPTION. The licensee must meet the following requirements whenever it places a child for adoption.

005.18(A) WRITTEN AGREEMENT. The licensee must have a written agreement with the applicant which is signed, dated, and executed at the time of placement. The agreement must include that the applicant will:

- (i) Participate in supervision by the agency of the child in the adoptive home;
- (ii) Agree to allow the licensee to complete post placement visits as determined by licensee and submit a report to the court regarding the findings of the post-placement visits;
- (iii) Obtain permission of licensee or birth parent, as appropriate, prior to removing the child from the state;
- (iv) Agree that the child may be removed from the adoptive placement by the licensee for good cause or at the request of the adoptive applicant; and
- (v) File an adoption petition according to Nebraska law or the law of the jurisdiction where the applicant resides.

005.18(B) DISCLOSURE OF INFORMATION. Prior to placement as much information as possible regarding the child must be obtained, including the information required by 391 NAC 8-005.15(A) and disclosed by the licensee, in writing, to the prospective adoptive parent.

005.18(C) DISCONTINUATION OF THE ADOPTION PLAN. The licensee must immediately inform the adoptive applicant of the biological parent's decision to discontinue the adoption plan and of any plan for returning the child to the birth or legal parent.

005.18(D) SIBLING PLACEMENT. The licensee must make efforts to place siblings with the same adoptive parent or applicant unless there is a court finding to the contrary. The licensee must keep a written record of the reasons and supporting evidence for separate placements in the child's file.

005.15(E) TERMINATION OF A PLACEMENT. The licensee must implement and maintain written policies and procedures regarding termination of adoptive placements at the request of the adoptive parent or applicant or according to Nebraska law if the placement is not in the best interests of the child.

005.19 SUPERVISION OF AN ADOPTIVE PLACEMENT. The licensee must supervise each child after placement in an adoptive home until the adoption is final.

005.20 FINALIZATION OF AN ADOPTION. The licensee must provide written consent as required by Neb. Rev. Stats. §§ 43-104 and 43-105 and all documents required by law to the court for each child in its custody.

005.21 POST-ADOPTION SERVICES. When a licensee provides post-adoption services it must provide:

- (1) Consultation;

- (2) On-going support and education;
- (3) Information about resources for counseling or medical needs;
- (4) Search or reunification resources;
- (5) Information about networking with other adoptive families;
- (6) Information about adoption education and support groups; and
- (7) Additional social and medical background information obtained after placement that could significantly impact the child.

005.21(A) SERVICES NOT PROVIDED. If the licensee does not provide post-adoption services, the licensee must provide resource and referral information regarding post-adoption services to the birth parent, adoptive parent, and child, if appropriate.

005.22 POST ADOPTION SEARCHES. The licensee must comply with the applicable provisions of Neb. Rev. Stats. §§ 43-121 through 43-147. The licensee must have and implement written procedures and policies to ensure compliance with the statutory requirements.

005.23 SPECIFIC ADDITIONAL REQUIREMENTS FOR FOREIGN ADOPTIONS. For each country in which the licensee intends to engage in foreign adoption, the licensee must do so in accordance with the requirements of the United States Custom and Immigration Services (USCIS) and the United States Department of State.

005.23(A) FEES. For foreign country adoptions, the licensee must provide to the adoptive parent or applicant, in writing, a detailed listing of the following expenses:

- (i) Home study fee;
- (ii) Adoption expenses in the United States;
- (iii) The foreign country program expenses;
- (iv) The care for the child in the foreign country expenses;
- (v) Translation and document expenses;
- (vi) Contributions to humanitarian or other welfare services programs in the foreign country;
- (vii) Post-placement and post-adoption expenses;
- (viii) A written explanation of when the fees will be charged, waived, reduced, or refunded; and
- (ix) To whom the fees are paid.

005.23(B) ADDITIONAL EXPENSES. The licensee may not customarily charge any additional fees and expenses beyond those disclosed in the adoption services contract and must have a written policy to this effect. In the event that unforeseen additional fees and expenses are incurred in the foreign country, the licensee may charge additional fees and expenses only when it notifies the prospective parents. The licensee must obtain specific written consent from the prospective parents prior to expending funds in excess of \$1000 for which the licensee will hold the adoptive parents responsible. The licensee must provide written receipts to the prospective parents for fees and expenses paid directly by the agency, on behalf of the prospective parents, in the foreign country.

EFFECTIVE
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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

391 NAC 8

006. PHYSICAL PLANT STANDARDS. The premises of all child-placing agencies must be kept neat, clean, and hazard free. There must be ample space for files and to meet privately with applicants, parents, and children.