

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Children and Family Services Act is amended by changing Section 35.1 as follows:

(20 ILCS 505/35.1) (from Ch. 23, par. 5035.1)

Sec. 35.1. The case and clinical records of patients in Department supervised facilities, wards of the Department, children receiving or applying for child welfare services, persons receiving or applying for other services of the Department, and Department reports of injury or abuse to children shall not be open to the general public. Such case and clinical records and reports or the information contained therein shall be disclosed by the Director of the Department to juvenile authorities when necessary for the discharge of their official duties who request information concerning the minor and who certify in writing that the information will not be disclosed to any other party except as provided under law or order of court. For purposes of this Section, "juvenile authorities" means: (i) a judge of the circuit court and members of the staff of the court designated by the judge; (ii) parties to the proceedings under the Juvenile Court Act of 1987 and their attorneys; (iii) probation officers and court

appointed advocates for the juvenile authorized by the judge hearing the case; (iv) any individual, public or private agency having custody of the child pursuant to court order or pursuant to placement of the child by the Department; (v) any individual, public or private agency providing education, medical or mental health service to the child when the requested information is needed to determine the appropriate service or treatment for the minor; (vi) any potential placement provider when such release is authorized by the court for the limited purpose of determining the appropriateness of the potential placement; (vii) law enforcement officers and prosecutors; (viii) adult and juvenile prisoner review boards; (ix) authorized military personnel; (x) individuals authorized by court; (xi) the Illinois General Assembly or any committee or commission thereof. This Section does not apply to the Department's fiscal records, other records of a purely administrative nature, or any forms, documents or other records required of facilities subject to licensure by the Department except as may otherwise be provided under the Child Care Act of 1969. Notwithstanding any other provision of this Section, upon request, a guardian ad litem or attorney appointed to represent a child who is the subject of an action pursuant to Article II of the Juvenile Court Act of 1987 may obtain a copy of foster home licensing records, including all information related to licensing complaints and investigations, regarding a home in which the child is placed or regarding a home in which the

Department plans to place the child. Any information contained in foster home licensing records that is protected from disclosure by federal or State law may be obtained only in compliance with that law. Nothing in this Section restricts the authority of a court to order release of licensing records for purposes of discovery or as otherwise authorized by law.

Nothing contained in this Act prevents the sharing or disclosure of information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive Action Program when that information is used to assist in the early identification and treatment of habitual juvenile offenders.

Nothing contained in this Act prevents the sharing or disclosure of information or records relating or pertaining to the death of a minor under the care of or receiving services from the Department and under the jurisdiction of the juvenile court with the juvenile court, the State's Attorney, and the minor's attorney.

Nothing contained in this Section prohibits or prevents any individual dealing with or providing services to a minor from sharing information with another individual dealing with or providing services to a minor for the purpose of coordinating efforts on behalf of the minor. The sharing of such information is only for the purpose stated herein and is to be consistent with the intent and purpose of the confidentiality provisions of the Juvenile Court Act of 1987. This provision does not

abrogate any recognized privilege. Sharing information does not include copying of records, reports or case files unless authorized herein.

Nothing in this Section prohibits or prevents the re-disclosure of records, reports, or other information that reveals malfeasance or nonfeasance on the part of the Department, its employees, or its agents. Nothing in this Section prohibits or prevents the Department or a party in a proceeding under the Juvenile Court Act of 1987 from copying records, reports, or case files for the purpose of sharing those documents with other parties to the litigation.

(Source: P.A. 94-1010, eff. 10-1-06.)

Section 10. The Child Care Act of 1969 is amended by changing Sections 4, 6, and 7 and by adding Section 2.22a as follows:

(225 ILCS 10/2.22a new)

Sec. 2.22a. Quality of care concerns applicant. "Quality of care concerns applicant" means an applicant for a foster care license or renewal of a foster care license where the applicant or any person living in the applicant's household:

(1) has had a license issued under this Act revoked;

(2) has surrendered a license issued under this Act for cause;

(3) has had a license issued under this Act expire or

has surrendered a license, while either an abuse or neglect investigation or licensing investigation was pending or an involuntary placement hold was placed on the home;

(4) has been the subject of allegations of abuse or neglect;

(5) has an indicated report of abuse or neglect; or

(6) has been the subject of certain types of involuntary placement holds or has been involved in certain types of substantiated licensing complaints, as specified and defined by Department rule.

(225 ILCS 10/4) (from Ch. 23, par. 2214)

Sec. 4. License requirement; application; notice.

(a) Any person, group of persons or corporation who or which receives children or arranges for care or placement of one or more children unrelated to the operator must apply for a license to operate one of the types of facilities defined in Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any relative, as defined in Section 2.17 of this Act, who receives a child or children for placement by the Department on a full-time basis may apply for a license to operate a foster family home as defined in Section 2.17 of this Act.

(a-5) Any agency, person, group of persons, association, organization, corporation, institution, center, or group providing adoption services must be licensed by the Department as a child welfare agency as defined in Section 2.08 of this

Act. "Providing adoption services" as used in this Act, includes facilitating or engaging in adoption services.

(b) Application for a license to operate a child care facility must be made to the Department in the manner and on forms prescribed by it. An application to operate a foster family home shall include, at a minimum: a completed written form; written authorization by the applicant and all adult members of the applicant's household to conduct a criminal background investigation; medical evidence in the form of a medical report, on forms prescribed by the Department, that the applicant and all members of the household are free from communicable diseases or physical and mental conditions that affect their ability to provide care for the child or children; the names and addresses of at least 3 persons not related to the applicant who can attest to the applicant's moral character; and fingerprints submitted by the applicant and all adult members of the applicant's household.

(b-5) Prior to submitting an application for a foster family home license, a quality of care concerns applicant as defined in Section 2.22a of this Act must submit a preliminary application to the Department in the manner and on forms prescribed by it. The Department shall explain to the quality of care concerns applicant the grounds for requiring a preliminary application. The preliminary application shall include a list of (i) all children placed in the home by the Department who were removed by the Department for reasons other

than returning to a parent and the circumstances under which they were removed and (ii) all children placed by the Department who were subsequently adopted by or placed in the private guardianship of the quality of care concerns applicant who are currently under 18 and who no longer reside in the home and the reasons why they no longer reside in the home. The preliminary application shall also include, if the quality of care concerns applicant chooses to submit, (1) a response to the quality of care concerns, including any reason the concerns are invalid, have been addressed or ameliorated, or no longer apply and (2) affirmative documentation demonstrating that the quality of care concerns applicant's home does not pose a risk to children and that the family will be able to meet the physical and emotional needs of children. The Department shall verify the information in the preliminary application and review (i) information regarding any prior licensing complaints, (ii) information regarding any prior child abuse or neglect investigations, and (iii) information regarding any involuntary foster home holds placed on the home by the Department. Foster home applicants with quality of care concerns are presumed unsuitable for future licensure.

Notwithstanding the provisions of this subsection (b-5), the Department may make an exception and issue a foster family license to a quality of care concerns applicant if the Department is satisfied that the foster family home does not pose a risk to children and that the foster family will be able

to meet the physical and emotional needs of children. In making this determination, the Department must obtain and carefully review all relevant documents and shall obtain consultation from its Clinical Division as appropriate and as prescribed by Department rule and procedure. The Department has the authority to deny a preliminary application based on the record of quality of care concerns of the foster family home. In the alternative, the Department may (i) approve the preliminary application, (ii) approve the preliminary application subject to obtaining additional information or assessments, or (iii) approve the preliminary application for purposes of placing a particular child or children only in the foster family home. If the Department approves a preliminary application, the foster family shall submit an application for licensure as described in subsection (b) of this Section. The Department shall notify the quality of care concerns applicant of its decision and the basis for its decision in writing.

(c) The Department shall notify the public when a child care institution, maternity center, or group home licensed by the Department undergoes a change in (i) the range of care or services offered at the facility, (ii) the age or type of children served, or (iii) the area within the facility used by children. The Department shall notify the public of the change in a newspaper of general circulation in the county or municipality in which the applicant's facility is or is proposed to be located.

(d) If, upon examination of the facility and investigation of persons responsible for care of children and, in the case of a foster home, taking into account information obtained for purposes of evaluating a preliminary application, if applicable, the Department is satisfied that the facility and responsible persons reasonably meet standards prescribed for the type of facility for which application is made, it shall issue a license in proper form, designating on that license the type of child care facility and, except for a child welfare agency, the number of children to be served at any one time.

(e) The Department shall not issue or renew the license of any child welfare agency providing adoption services, unless the agency (i) is officially recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) and (ii) is in compliance with all of the standards necessary to maintain its status as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law). The Department shall grant a grace period of 24 months from the effective date of this amendatory Act of the 94th General Assembly for existing child welfare agencies providing adoption services to obtain 501(c)(3) status. The Department shall permit an existing child welfare agency that converts from its current structure in order to be recognized as a 501(c)(3) organization as required

by this Section to either retain its current license or transfer its current license to a newly formed entity, if the creation of a new entity is required in order to comply with this Section, provided that the child welfare agency demonstrates that it continues to meet all other licensing requirements and that the principal officers and directors and programs of the converted child welfare agency or newly organized child welfare agency are substantially the same as the original. The Department shall have the sole discretion to grant a one year extension to any agency unable to obtain 501(c)(3) status within the timeframe specified in this subsection (e), provided that such agency has filed an application for 501(c)(3) status with the Internal Revenue Service within the 2-year timeframe specified in this subsection (e).

(Source: P.A. 98-804, eff. 1-1-15.)

(225 ILCS 10/6) (from Ch. 23, par. 2216)

Sec. 6. (a) A licensed facility operating as a "child care institution", "maternity center", "child welfare agency", "day care agency" or "day care center" must apply for renewal of its license held, the application to be made to the Department on forms prescribed by it.

(b) The Department, a duly licensed child welfare agency or a suitable agency or person designated by the Department as its agent to do so, must re-examine every child care facility for

renewal of license, including in that process the examination of the premises and records of the facility as the Department considers necessary to determine that minimum standards for licensing continue to be met, and random surveys of parents or legal guardians who are consumers of such facilities' services to assess the quality of care at such facilities. In the case of foster family homes, or day care homes under the supervision of or otherwise required to be licensed by the Department, or under supervision of a licensed child welfare agency or day care agency, the examination shall be made by the Department, or agency supervising such homes. If the Department is satisfied that the facility continues to maintain minimum standards which it prescribes and publishes, it shall renew the license to operate the facility.

(b-5) In the case of a quality of care concerns applicant as defined in Section 2.22a of this Act, in addition to the examination required in subsection (b) of this Section, the Department shall not renew the license of a quality of care concerns applicant unless the Department is satisfied that the foster family home does not pose a risk to children and that the foster family home will be able to meet the physical and emotional needs of children. In making this determination, the Department must obtain and carefully review all relevant documents and shall obtain consultation from its Clinical Division as appropriate and as prescribed by Department rule and procedure. The Department has the authority to deny an

application for renewal based on a record of quality of care concerns. In the alternative, the Department may (i) approve the application for renewal subject to obtaining additional information or assessments, (ii) approve the application for renewal for purposes of placing or maintaining only a particular child or children only in the foster home, or (iii) approve the application for renewal. The Department shall notify the quality of care concerns applicant of its decision and the basis for its decision in writing.

(c) If a child care facility's license, other than a license for a foster family home, is revoked, or if the Department refuses to renew a facility's license, the facility may not reapply for a license before the expiration of 12 months following the Department's action; provided, however, that the denial of a reapplication for a license pursuant to this subsection must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of satisfying the standards and rules promulgated by the Department pursuant to this Act or maintaining a facility which adheres to such standards and rules.

(d) If a foster family home license (i) is revoked, (ii) is surrendered for cause, or (iii) expires or is surrendered with either certain types of involuntary placement holds in place or while a licensing or child abuse or neglect investigation is pending, or if the Department refuses to renew a foster home license, the foster home may not reapply for a license before

the expiration of 5 years following the Department's action or following the expiration or surrender of the license.

(Source: P.A. 86-554.)

(225 ILCS 10/7) (from Ch. 23, par. 2217)

Sec. 7. (a) The Department must prescribe and publish minimum standards for licensing that apply to the various types of facilities for child care defined in this Act and that are equally applicable to like institutions under the control of the Department and to foster family homes used by and under the direct supervision of the Department. The Department shall seek the advice and assistance of persons representative of the various types of child care facilities in establishing such standards. The standards prescribed and published under this Act take effect as provided in the Illinois Administrative Procedure Act, and are restricted to regulations pertaining to the following matters and to any rules and regulations required or permitted by any other Section of this Act:

(1) The operation and conduct of the facility and responsibility it assumes for child care;

(2) The character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of children served. All child day care center licensees and employees who are required to report child abuse or neglect under the Abused and Neglected Child Reporting Act shall be required to attend training on

recognizing child abuse and neglect, as prescribed by Department rules;

(3) The general financial ability and competence of the applicant to provide necessary care for children and to maintain prescribed standards;

(4) The number of individuals or staff required to insure adequate supervision and care of the children received. The standards shall provide that each child care institution, maternity center, day care center, group home, day care home, and group day care home shall have on its premises during its hours of operation at least one staff member certified in first aid, in the Heimlich maneuver and in cardiopulmonary resuscitation by the American Red Cross or other organization approved by rule of the Department. Child welfare agencies shall not be subject to such a staffing requirement. The Department may offer, or arrange for the offering, on a periodic basis in each community in this State in cooperation with the American Red Cross, the American Heart Association or other appropriate organization, voluntary programs to train operators of foster family homes and day care homes in first aid and cardiopulmonary resuscitation;

(5) The appropriateness, safety, cleanliness and general adequacy of the premises, including maintenance of adequate fire prevention and health standards conforming to State laws and municipal codes to provide for the

physical comfort, care and well-being of children received;

(6) Provisions for food, clothing, educational opportunities, program, equipment and individual supplies to assure the healthy physical, mental and spiritual development of children served;

(7) Provisions to safeguard the legal rights of children served;

(8) Maintenance of records pertaining to the admission, progress, health and discharge of children, including, for day care centers and day care homes, records indicating each child has been immunized as required by State regulations. The Department shall require proof that children enrolled in a facility have been immunized against Haemophilus Influenzae B (HIB);

(9) Filing of reports with the Department;

(10) Discipline of children;

(11) Protection and fostering of the particular religious faith of the children served;

(12) Provisions prohibiting firearms on day care center premises except in the possession of peace officers;

(13) Provisions prohibiting handguns on day care home premises except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside on the premises of a day care home;

(14) Provisions requiring that any firearm permitted on day care home premises, except handguns in the possession of peace officers, shall be kept in a disassembled state, without ammunition, in locked storage, inaccessible to children and that ammunition permitted on day care home premises shall be kept in locked storage separate from that of disassembled firearms, inaccessible to children;

(15) Provisions requiring notification of parents or guardians enrolling children at a day care home of the presence in the day care home of any firearms and ammunition and of the arrangements for the separate, locked storage of such firearms and ammunition; and

(16) Provisions requiring all licensed child care facility employees who care for newborns and infants to complete training every 3 years on the nature of sudden unexpected infant death (SUID), sudden infant death syndrome (SIDS), and the safe sleep recommendations of the American Academy of Pediatrics.

(17) With respect to foster family homes, provisions requiring the Department to review quality of care concerns and to consider those concerns in determining whether a foster family home is qualified to care for children.

(b) If, in a facility for general child care, there are children diagnosed as mentally ill or children diagnosed as having an intellectual or physical disability, who are

determined to be in need of special mental treatment or of nursing care, or both mental treatment and nursing care, the Department shall seek the advice and recommendation of the Department of Human Services, the Department of Public Health, or both Departments regarding the residential treatment and nursing care provided by the institution.

(c) The Department shall investigate any person applying to be licensed as a foster parent to determine whether there is any evidence of current drug or alcohol abuse in the prospective foster family. The Department shall not license a person as a foster parent if drug or alcohol abuse has been identified in the foster family or if a reasonable suspicion of such abuse exists, except that the Department may grant a foster parent license to an applicant identified with an alcohol or drug problem if the applicant has successfully participated in an alcohol or drug treatment program, self-help group, or other suitable activities and if the Department determines that the foster family home can provide a safe, appropriate environment and meet the physical and emotional needs of children.

(d) The Department, in applying standards prescribed and published, as herein provided, shall offer consultation through employed staff or other qualified persons to assist applicants and licensees in meeting and maintaining minimum requirements for a license and to help them otherwise to achieve programs of excellence related to the care of children

served. Such consultation shall include providing information concerning education and training in early childhood development to providers of day care home services. The Department may provide or arrange for such education and training for those providers who request such assistance.

(e) The Department shall distribute copies of licensing standards to all licensees and applicants for a license. Each licensee or holder of a permit shall distribute copies of the appropriate licensing standards and any other information required by the Department to child care facilities under its supervision. Each licensee or holder of a permit shall maintain appropriate documentation of the distribution of the standards. Such documentation shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

(f) The Department shall prepare summaries of day care licensing standards. Each licensee or holder of a permit for a day care facility shall distribute a copy of the appropriate summary and any other information required by the Department, to the legal guardian of each child cared for in that facility at the time when the child is enrolled or initially placed in the facility. The licensee or holder of a permit for a day care facility shall secure appropriate documentation of the distribution of the summary and brochure. Such documentation shall be a part of the records of the facility and subject to inspection by an authorized representative of the Department.

(g) The Department shall distribute to each licensee and holder of a permit copies of the licensing or permit standards applicable to such person's facility. Each licensee or holder of a permit shall make available by posting at all times in a common or otherwise accessible area a complete and current set of licensing standards in order that all employees of the facility may have unrestricted access to such standards. All employees of the facility shall have reviewed the standards and any subsequent changes. Each licensee or holder of a permit shall maintain appropriate documentation of the current review of licensing standards by all employees. Such records shall be part of the records of the facility and subject to inspection by authorized representatives of the Department.

(h) Any standards involving physical examinations, immunization, or medical treatment shall include appropriate exemptions for children whose parents object thereto on the grounds that they conflict with the tenets and practices of a recognized church or religious organization, of which the parent is an adherent or member, and for children who should not be subjected to immunization for clinical reasons.

(i) The Department, in cooperation with the Department of Public Health, shall work to increase immunization awareness and participation among parents of children enrolled in day care centers and day care homes by publishing on the Department's website information about the benefits of immunization against vaccine preventable diseases, including

influenza and pertussis. The information for vaccine preventable diseases shall include the incidence and severity of the diseases, the availability of vaccines, and the importance of immunizing children and persons who frequently have close contact with children. The website content shall be reviewed annually in collaboration with the Department of Public Health to reflect the most current recommendations of the Advisory Committee on Immunization Practices (ACIP). The Department shall work with day care centers and day care homes licensed under this Act to ensure that the information is annually distributed to parents in August or September.

(j) Any standard adopted by the Department that requires an applicant for a license to operate a day care home to include a copy of a high school diploma or equivalent certificate with his or her application shall be deemed to be satisfied if the applicant includes a copy of a high school diploma or equivalent certificate or a copy of a degree from an accredited institution of higher education or vocational institution or equivalent certificate.

(Source: P.A. 98-817, eff. 1-1-15; 99-143, eff. 7-27-15.)

Section 99. Effective date. This Act takes effect January 1, 2017.