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STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
CHILD AND FAMILY SERVICES DIVISION

**LICENSING REQUIREMENTS
FOR
YOUTH FOSTER HOMES**

LICENSING REQUIREMENTS FOR YOUTH FOSTER HOMES

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37.51.101 Youth Foster Homes: Purpose

(1) These rules establish licensing procedures and licensing requirements for youth foster homes, including therapeutic foster homes and kinship foster homes licensed by the department.

37.51.102 Youth Foster Homes: Definitions

The following definitions apply to youth foster home licensing rules:

- (1) "ACIP" means the Advisory Committee on Immunization Practices of the U.S. Public Health Service.
- (2) "Crib" means full size crib, mini crib, or play pen which must meet the requirements for full size baby cribs and non-full size baby cribs as specified by the Consumer Product Safety Commission.
- (3) "Department" means department of public health and human services.
- (4) "DT vaccine" means a vaccine containing a combination of diphtheria and tetanus toxoids for pediatric use.
- (5) "DTP vaccine" means a vaccine containing diphtheria and tetanus toxoids and pertussis (whooping cough) vaccine combined, including a vaccine referred to as DTaP, diphtheria, tetanus toxoid, and acellular pertussis vaccine combined.
- (6) "Foster child" means a person under 18 years of age who has been placed in a youth foster home by the department, another state agency, a tribe, or a licensed child placing agency. A youth over the age of 18 may remain in foster care if still in secondary school.
- (7) "Foster parent" means a person responsible for the day-to-day care, supervision, and guidance of children in a youth foster home.
- (8) "Household member" means any person residing at the time of an emergency placement or application or any person staying in an emergency placement home or a licensed foster home for more than two weeks.
- (9) "Kinship foster home" means a youth foster home in which substitute care is provided by a member of the child's extended family, a member of the child's or family's tribe, the child's godparents, the child's stepparents if the child is placed with the stepparent by the department, or a person to whom the child, child's parents and family ascribe a family relationship and with whom the child has had a significant emotional tie that existed prior to the agency's involvement with the child or family.
- (10) "MMR vaccine" means a live virus vaccine containing a combination of measles, mumps, and rubella vaccine.
- (11) "PCV vaccine" means a vaccine containing pneumococcal conjugate vaccine.
- (12) "Secondhand smoke" or "environmental tobacco smoke (ETS)" is a mixture of the smoke given off by the burning end of a cigarette, pipe, or cigar, and the smoke exhaled by smokers.
- (13) A "serious incident" includes, suicide attempts, use of physical force by a foster parent or any member of the foster parent's household, sexual contact with the child by anyone, emergency medical treatment, injury to a foster child that requires hospitalization, physical assault by the foster child, involvement with law enforcement

by any member of the foster parent's household, including a foster child, or the death of a foster child.

(14) "Substitute care" or "foster care" means the full-time care of a child who is placed in a youth foster home by the department, another state agency, tribe, or licensed child placing agency for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment, to children who are removed from or who are without the care and supervision of their parents or guardians.

(15) "Td vaccine" means a booster vaccine containing a combination of tetanus and diphtheria toxoids.

(16) "Tdap vaccine" means a booster vaccine containing a combination tetanus toxoid, reduced diphtheria toxoid, and acellular pertussis vaccine.

(17) "Therapeutic foster home" means a youth foster home operating under the direction of the clinical staff of a licensed child placing agency when such agency has a contract with the department to provide therapeutic foster care services. A therapeutic foster home provides substitute care to only one child unless it is approved by the department to provide care for a second child needing therapeutic services. The therapeutic foster home may provide services to a foster child who does not need therapeutic services only as provided in ARM 37.51.603.

(18) "Youth foster home" or "foster home" means a youth care facility in which care is provided to a maximum of six children or youth residing in the home, other than the foster parents' own children, stepchildren, or wards.

37.51.201 Youth Foster Homes: License Required

(1) Every youth foster home shall be licensed by the department or responsible tribal authority.

(2) Failure of a provider to obtain or renew a license while continuing to operate a youth foster home is a misdemeanor and shall be subject to the penalties provided in 52-2-623, MCA.

37.51.202 Youth Foster Homes: Licensing Procedures

(1) Upon receipt of a completed application packet for license or renewal of license and completion of the licensing assessment, the department shall determine if the applicant meets all requirements for licensure as established in these rules. A completed packet consists of all items on the initial or renewal licensing checklist required for initial, or renewal licensing expect for the home assessment.

(2) If the department determines that an application or accompanying information is incomplete or erroneous, the department shall notify the applicant in writing of the specific deficiencies or errors, and the applicant shall submit the required or corrected information within 60 days. The department may not issue a regular license or renew a license until it receives all required or corrected information.

(3) An's applicant or licensee's is failure to provide information they are obligated may result in the denial of the application, or if a license has been issued, may result in other negative licensing action.

37.51.203 Youth Foster Homes: Licensure and Renewal

(1) The department may issue a youth foster home, kinship foster home, or therapeutic foster home license to any license applicant that the department determines meets all licensing requirements established by these rules. The initial license will expire one year from the date it is issued unless it is extended up to an additional 60 days pursuant to (4).

(2) The department may renew a youth foster home or kinship home license biennially on the expiration date of the initial year's license if:

(a) the foster parents apply for renewal of the foster home license on a form available on the department's website prior to the expiration date of the current license; and

(b) following completion of a relicensing study, the department determines that the foster home continues to meet all licensing requirements established by these rules.

(3) The department may renew therapeutic foster care licenses annually on the expiration date of the previous year's license if:

(a) the foster parents apply for renewal of the foster home license on a form available on the Department's website prior to the expiration date of the current license; and

(b) following completion of a relicensing study, the department determines that the foster home continues to meet all licensing requirements established by these rules.

(4) If the foster parent submits a completed application packet for renewal of a license prior to the expiration of the license, but the department is unable to complete the relicensing study before the expiration date of the license and makes a determination that the home is in compliance with the licensing requirements before the expiration date of the previous year's license, the previous year's license will continue in effect for no more than 60 days while the department completes the relicensing study.

37.51.207 Youth Foster Homes: Provisional Licensure

(1) The department may, at its discretion, issue a provisional license restricted for care of a specific child or children for any period up to six months to any license applicant for a youth foster home or kinship foster home that:

(a) meets all licensing requirements for fire safety;

(b) ensures that all adult household members complete sign and submit a release of information form available on the department's website;

(c) submits completed fingerprint cards on all adult household members;

(d) passes a Montana child protective check for all adults household members; and

(e) agrees in writing to comply fully with all licensing requirements established by these rules prior to the expiration of the provisional license.

37.51.208 Youth Foster Homes: Restricted License

(1) The department may issue a license that is restricted to the care of a specific child or children.

37.51.209 Youth Foster Homes: Dual License

(1) If an applicant for a foster home or kinship foster home is a licensed or registered day care provider, or if a licensee wishes to become a licensed or registered day care provider, their application must be approved by the Licensing Bureau Chief and the designee for the Early Childhood and Family Support Division- Child Care Licensing.

37.51.210 Youth Foster Homes: Granting Licensure Exceptions

(1) An applicant against whom child abuse or neglect has been substantiated may be denied a foster care license unless an exception is granted by the department \ after careful review of extenuating circumstances that justify the issuance of a restricted license.

(2) An applicant whose child has been in foster care may be denied a foster care license unless the department grants an exception because the circumstances that led to the provision of services and placement no longer exist. This does not include an applicant whose children were in foster care prior to being placed with the applicant for adoption.

(3) An applicant may not be newly licensed as a youth foster home if any one of the following has occurred within 12 months of the application, unless an exception is granted by an appropriate resource family specialist supervisor:

- (a) a death of a spouse or a child in the applicant’s family;
- (b) a marital separation or divorce of the applicants;
- (c) an adoption of a child who has not been living with the applicants for at least one year;
- (d) the birth of a child to the applicants; or
- (e) loss of employment by an applicant.

(4) If any event described in (3)(a) through (3)(e) occurs in a licensed foster home, the foster parents shall notify the licensing worker within 48 hours as required by ARM 37.51.602 and the licensing worker will reevaluate the home within 30 days to determine whether to recommend a change in the licensing status of the home.

(5) The department shall review the circumstances and the foster parents’ ability to maintain safety and wellbeing for all children in the home when a foster home exceeds more than six children in the home.

37.51.216 Youth Foster Homes: Negative Licensing Action

(1) The department, through written notice to the applicant, licensee, or potential emergency placement will deny or revoke a license or emergency placement upon finding that the applicant, licensee, emergency placement or any household member has a conviction for any of the following types of crimes:

- (a) felony crimes involving violence including homicide, felony partner-family member assault, rape, sexual assault human trafficking, robbery, burglary, kidnapping, animal cruelty, arson ,aggravated assault, or convictions requiring registration on a sexual or violent offender registry.
 - (b) felony and misdemeanor crimes against children such as child abuse or neglect, endangering the welfare of a child, incest, child sexual abuse, ritual abuse of a minor, child pornography, child prostitution, internet crimes involving children, and unlawful transactions with children;
 - (c) if within the previous five years, felony conviction for a drug related offense, the use, distribution, or possession of controlled substances, criminal possession of precursors to dangerous drugs, criminal manufacture of dangerous drugs, criminal possession, manufacture, or delivery of drug paraphernalia, or driving under the influence of alcohol or other drugs
 - (d) if within the previous five years a conviction for other crimes such as misdemeanor assault and battery, including misdemeanor partner-family member assault, or
 - (e) felony and misdemeanor crimes against older persons or developmentally disabled persons including abuse, sexual abuse, neglect, or exploitation.
- (2) The department, through written notice to the applicant or licensee, may deny, suspend, restrict, or revoke a license upon a finding that:
- (a) the foster home is not in compliance with fire safety standards;
 - (b) the foster home or foster parents or any household member is not in compliance with any other licensing requirements;
 - (c) a foster parent has made any material misrepresentations to the department, either negligent or intentional, including an omission of information the foster parent is obligated to disclose to the department, regarding any aspect of the foster home;
 - (d) a foster parent has failed to use the foster care payments for the support of the foster child;
 - (e) a foster parent or household member has been named as the perpetrator of child abuse or neglect in a substantiated report or their child has been placed in out of home care by the department;
 - (f) a foster parent failed to report an incident of suspected child abuse or neglect of any child to the department as required by [41-3-201](#), MCA, within 24 hours of receiving information pertaining to the incident;
 - (g) results of a psychological or medical examination provide reasonable grounds for the department to believe that the foster parent is not an appropriate caretaker for a child; or
 - (h) a foster parent or anyone living in the foster home may pose any risk or threat to the safety or welfare of a child placed in the foster home or.
 - (i) a foster parent has failed to protect the health, welfare, or safety of a child or the foster home presents a threat to the health, welfare, or safety welfare, or safety of a child.

37.51.217 Youth Foster Homes: Hearing Procedures

(1) Any applicant or licensee against whom the department takes negative licensing action regarding a youth foster home, kinship foster home, or therapeutic foster home license may request a fair hearing as provided in ARM 37.5.117, 37.5.304, 37.5.307, 37.5.313, 37.5.322, 37.5.325, 37.5.328, 37.5.331, 37.5.334, and 37.5.337.

37.51.218 Youth Foster Homes: Removal of A Child

(1) The department, after providing the foster home with notice, may remove a child in the care or custody of the department from a foster home at any time it determines that another placement is more appropriate. The department may immediately remove any foster child if there is a need to protect the child from possible harm.

37.51.301 Youth Foster Homes: General Requirements for Foster Parents and Other Household Members

- (1) Foster parents must:
 - (a) be at least 18 years of age;
 - (b) be physically, mentally, and emotionally competent to care for children;
 - (c) like and understand children;
 - (d) be in good general health;
 - (f) be able to demonstrate the foster home has sufficient resources to meet the needs of their existing family, independent of foster care reimbursements;
 - (g) comply with state laws including those that relate to the possession or use of drugs, alcohol, tobacco, and firearms; and
 - (h) have lived together for at least 24 months unless an exception is granted by the department
- (2) No person residing in or visiting the foster home may pose a risk or threat to the safety and well-being of children in the home.
- (3) A foster parent shall not provide exposure to sexual or violent language and behavior inappropriate to the child's age, including but not limited to visual or other media depictions, and music, while in the foster parent's home.

37.51.305 Youth Foster Homes: Health Verification Requirements for Foster Parents and Other Household Members

(1) A personal statement of health form available on the department's website, must be completed for each household member. The form (s) must be submitted to the department with the initial licensure application, any renewal application and/or anytime there is a new household member .

37.51.306 Youth Foster Homes: Immunization Requirements

(1) All children residing in the foster home, other than the foster child, shall be immunized against measles, rubella, mumps, poliomyelitis, diphtheria, pertussis, tetanus, varicella, hepatitis B, pneumococcal, and Haemophilus influenza type B according to the following schedule or have a religious or medical exemption:

Total Immunizations Required, By Age

<u>Age</u>	<u>Number Doses - Vaccine Type</u>
under 2 months old	no vaccinations required
by 3 months of age	1 dose of polio vaccine 1 dose of DTP vaccine 1 dose of Hib vaccine 1 dose of Hep B vaccine 1 dose of PCV vaccine
by 5 months of age	2 doses of polio vaccine 2 doses of DTP vaccine 2 doses of Hib vaccine 2 doses of Hep B vaccine 2 doses of PCV vaccine
by 7 months of age	2 doses of polio vaccine 3 doses of DTP vaccine *2 or 3 doses of Hib vaccine 2 doses of Hep B vaccine 3 doses of PCV vaccine
by 16 months of age	2 doses of polio vaccine 3 doses of DTP vaccine 1 dose of varicella vaccine 1 dose of MMR vaccine *3 or 4 doses of Hib vaccine 2 doses of Hep B vaccine *4 doses of PCV vaccine
by 19 months of age	1 dose of varicella vaccine 3 doses of polio vaccine 4 doses of DTP vaccine 1 dose of MMR vaccine *3 or 4 doses of Hib vaccine 3 doses of Hep B vaccine *4 doses of PCV vaccine

By 6 years of age 4th birthday	3 doses of polio vaccine, one given after the 4th birthday 4 doses of DTP vaccine, one given after the 4th birthday 2 doses of varicella vaccine 2 doses of MMR vaccine 3 doses of Hep B vaccine
By 12 years of age	3 doses of polio vaccine, one given after the 4th birthday 1 dose of Tdap vaccine 2 doses of varicella vaccine 2 doses of MMR vaccine 3 doses of Hep B vaccine

(*) varies depending on vaccine type used or the ACIP catch-up schedule.

(2) Hib and PCV vaccines are not required or recommended for children five years of age and older.

(3) Doses of MMR and varicella vaccines, to be acceptable under this rule, must be given no earlier than 12 months of age. A child who received a dose prior to 12 months of age must be revaccinated; however, vaccine doses given up to four days before the minimum interval or age are counted as valid. Live vaccines not administered at the same visit must be separated by at least four weeks.

(4) Vaccines immunizing against diphtheria, pertussis, and tetanus must be administered as follows:

(a) a child less than seven years of age must be administered four or more doses of DTP or DTaP vaccine, at least one dose of which must be given after the fourth birthday;

(b) DT vaccine administered to a child less than seven years of age is acceptable for purposes of this rule only if accompanied by a medical or religious exemption; and

(c) a child seven years old or older who has not completed the requirement in (1) must receive additional doses of Tdap vaccine or Td vaccine to become current in accordance with the ACIP schedule.

(5) The following are considered adequate documentation of vaccination for the purposes of this subchapter:

(a) a record from any local health department in the United States, signed by a local officer or nurse;

(b) a certificate signed by a local health officer or nurse;

(c) any official immunization record, if information has been recorded and signed by a physician, physician's designee, local health officer, or that officer's designee; or an official report from the statewide immunization information system, or a health care provider's medical record system;

(d) immunization recorded on a form approved by the U.S. government;

(e) any state's official parent-maintained immunization record;

(f) the international certificates of vaccination approved by the World Health Organization; or

(g) in the case of vaccine administered outside of the United States, a record of the vaccination signed by an official of the principal public health agency of the country where the vaccination occurred.

(6) Vaccine administration data may not be filled out by a parent, guardian, or other person unless they are a health care provider, health department official, or person otherwise authorized to do so by this subchapter.

(7) The immunization information is to be kept on file in both the foster home and the licensing file.

(8) A child residing in the foster home, other than the foster child, is not required to have any immunizations which are medically contraindicated or contrary to the religious belief, observance, or practice of the child's custodial parent or legal guardian.

(a) A written and signed statement from a health care provider that an immunization otherwise required by (1) of this rule is medically contraindicated will exempt a child from those immunization requirements as deemed necessary by the physician. It is preferred, but not mandatory, that a health care provider's medical exemption be recorded on HES-101A, and medical exemption documentation must include:

(i) which specific immunization is contraindicated;

(ii) the period of time during which the immunization is contraindicated;

(iii) the reasons for the medical contraindication; and

(iv) when deemed necessary by a health care provider, the results of immunity testing. The tests must indicate serological evidence of immunity and must be performed by a CLIA approved laboratory.

(b) A notarized affidavit of exemption on religious grounds attesting that receipt of a vaccine or vaccines is contrary to an individual's religious belief, observance, or practice;

(i) the religious exemption affidavit will be prepared on a form provided by the department;

(ii) the form must be provided to the department prior to licensure; and

(iii) the original claim of the religious exemption must be kept by the department in the licensing record.

37.51.310 Youth Foster Homes: Criminal Background Check

(1) A satisfactory criminal background, motor vehicle, and child protective services check is required for each household member of the applicant, licensee or emergency placement.

(2) If a new applicant or household member who has lived only in Montana cannot be successfully fingerprinted, or if two fingerprint cards cannot be successfully read by the Department of Justice (DOJ), a Montana name-based criminal records check will be used for applicants who have not lived in a state other than Montana.

(3) If an applicant or household member who has lived in states other than Montana cannot be successfully fingerprinted, or if two fingerprint cards cannot be successfully read by the department of justice, a Montana name based criminal records check will be completed by request from the DOJ, and:

(4) An annual name-based criminal records check for licensed foster parents and all adult household members is required for relicensure.

(5) A motor vehicle record check is required for all licensed drivers in the household for relicensure.

(7) A child protective services check will be requested from all states in which an applicant or any adult household member has lived for a minimum of the past five years.

37.51.311 Youth Foster Homes: Psychological and Medical Examinations

(1) The department may require a psychological evaluation or medical examination, and/or a signed authorization for release of medical or psychological records from:

- (a) any person applying for licensure as a foster parent, or any member of the household of a person applying for licensure as a foster parent; or
- (b) any currently licensed foster parent or any member of a currently licensed foster parent's household.

(2) The results of a psychological or medical examination may be considered in determining whether an applicant licensee or members of an applicant's or licensee's household meets licensing requirements and may be relied upon as a basis for negative licensing action.

37.51.601 Youth Foster Homes: Confidentiality of Records and Information

(1) All information in records maintained in a youth foster home and all personal information made available to a foster parent pertaining to an individual child and the child's family must be kept confidential unless a written court order authorizes the release of the information. The confidentiality requirement continues after the child is no longer in the home. The confidentiality requirement also applies to information a foster parent receives about foster children placed with other foster parents, whether the information is received in a support group setting or otherwise.

(2) All requests for records or information maintained by a youth foster home which pertain to an individual child or the child's family must be referred to the department or, if applicable, to the agency that placed the child. The department may authorize the release of information from the foster home; the foster home may not.

(3) All records pertaining to individual children placed by the department are available at any time to the department or its representatives.

(4) Records pertaining to individual children residing in the home but not placed by or in the custody of the department are available to the department for the purposes of licensing or relicensing the youth foster home.

37.51.602 Youth Foster Homes: Reports Of Change In Composition Of Foster Home

(1) Foster parents shall notify the department licensing worker or supervisor, and or the child placing agency's licensing worker under whose jurisdiction the foster home operates, within 48 hours of:

- (a) a death of a spouse or a child in the foster family;
- (b) a marital separation or divorce of the foster parents;
- (c) an adoption of a child who has not been living with the foster parents for at least one year;
- (d) the birth of a child to the foster parents; or
- (e) loss of employment by one of the foster parents

(2) At least 30 days prior to moving, foster parents shall report a planned change of residence to the department licensing worker or supervisor or to the child placing agency under whose jurisdiction the foster home operates. The licensing worker assigned to the family will evaluate the new residence for compliance as soon as possible but not more than 10 working days after the move to the new residence.

(3) Foster parents shall provide notice to the department licensing worker or supervisor or the child placing agency under whose jurisdiction the foster home operates:

- (a) within one working day of any changes in household composition; and
- (b) within 30 days of a change in employment.

(4) If a foster parent is unwilling or unable to care for a child who is placed in the foster parent's care, the foster home shall notify the child's placing worker or their supervisor immediately. The foster parent is not authorized to make arrangements for care of the child, except for respite care.

(5) A foster parent may not accept placement of any child, including foreign exchange student, Bureau of Indian Affairs placement or tribal placement into the household without prior notice to and approval by the department or the licensed child placing agency under whose jurisdiction the foster home operates and the prior approval of the department.

37.51.603 Youth Foster Homes: Therapeutic Foster Homes

(1) Therapeutic foster parents must meet all requirements for regular foster parents set forth in this rule, the requirements set forth in ARM 37.87.1401 - 1413, et seq. and the additional requirements in this rule and ARM 37.51.1410.

(2) Therapeutic foster parents are in home treatment providers who, in addition to carrying out usual family foster parent responsibilities, implement treatment strategies and provide treatment interventions under the supervision of a therapeutic foster care agency's clinical staff according to the child's individual treatment plan.

(3) Therapeutic foster care requires the availability of 24 hour per day supervision to deliver therapeutic services as needed. Parenting skills must be sufficient to meet the level of therapeutic foster care being provided, including being adequate to address the needs of the emotionally disturbed youth in the areas of behavior

management, supportive counseling, and implementation of the treatment interventions identified in the child's individual treatment plan.

(4) If childcare arrangements are made for a child receiving therapeutic foster care for any reason, including to allow a foster parent to work or in order to provide socialization opportunities for the child, such arrangements must be approved by the child's treatment team to ensure they meet the therapeutic needs of the child.

(5) Therapeutic foster parents are members of the youth's treatment team and must participate in treatment team meetings.

(6) Therapeutic foster parents shall regularly document the youth's progress toward achievement of the individual treatment plan. This documentation must be put in writing and must be incorporated into the youth's case file within 30 days.

(7) The department in conjunction with the licensed child placing agency under whose jurisdiction the foster home operates may approve the placement of children who are not approved for therapeutic foster care services with youth receiving therapeutic foster care services when:

(a) placement in the therapeutic foster home will maintain an intact sibling group;

(b) placement in the therapeutic foster home will maintain a parent/child relationship when the parent is a youth who is receiving therapeutic foster care services;

(c) moving a child who was previously placed in the therapeutic foster home but is not receiving therapeutic foster care services is determined by the department to not be in the best interests of the child; or

(d) the department and licensed child placing agency under whose jurisdiction the foster home operates determine that a kinship placement is appropriate, and an exception is granted by the regional administrator and licensing bureau chief.

37.51.607 Youth Foster Homes: Reports of Suspected Child Abuse or Neglect

(1) As required by 41-3-201, MCA, foster parents shall report any incident of known or suspected child abuse or neglect of any child to the department's centralized intake bureau at 1-866- 820-5437. Foster parents shall make the report within 24 hours of receiving information concerning suspected child abuse or neglect.

37.51.608 Youth Foster Homes: Reports of Serious Incidents and Threats

(1) Foster parents shall as soon as possible but in not more than 24 hours report any serious incident as defined in ARM 37.51.102(13) involving a foster child to the person or agency which placed the child and to the department licensing worker or licensed child placing agency under whose jurisdiction the foster home operates .

(2) Foster parents shall complete a written incident report on a form available on the department website of any serious incident involving any child in the home. A copy of the report shall be maintained at the foster home and a copy sent to the

department licensing worker or the licensed child placing agency under whose jurisdiction the foster home operates the next working day.

(3) Foster parents shall as soon as possible but in not more than 24 hours report any foster child who has run away from home to the police and the department's Centralized Intake Bureau 1(866) 820-5437.

(4) Foster parents shall report disasters or emergencies which require evacuation of a foster home to the department's centralized intake bureau at 1-866-820-5437.

(5) Foster parents shall report any threats to the health, welfare, or safety of a child at the time of the license application or with respect to any threat that subsequently arises, within the next working day after becoming aware of the threat to the placing worker and the department licensing worker or the licensed child placing agency under whose jurisdiction the foster home operates

37.51.609 Youth Foster Homes: Reports of Discipline Violations

(1) If a foster parent or other household member physically disciplines a foster child as described in ARM 37.51.826 or violates any other portion of that rule, the foster parent must notify the agency that placed the child and the department licensing worker or supervisor of the violation by the next working day. The foster parent must then complete a written report on a form provided by the department and must submit it to both the person or agency which placed the child and to the department licensing worker or supervisor within 48 hours of giving notice of the violation.

37.51.801 Youth Foster Homes: General Program Requirements

(1) A foster parent shall not accept more children than the number specified on the license without prior approval of the department licensing worker or the licensed child placing agency under whose jurisdiction the foster home operates.

(2) A foster parents shall arrange for appropriate childcare for every child in foster care when the child is not being cared for by a foster parent and not in school.

(3) A foster parent shall provide appropriate care including:

(a) regular, well-balanced meals, an adequately maintained and furnished home, clothing, and supervision of child's health and dental care;

(b) personal care, supervision, and attention appropriate to each child's age, needs, and level of functioning;

(4) A foster parents will make careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. A foster parents shall use this standard when determining whether to allow a child in foster care, under the responsibility of the state, to participate in extracurricular, enrichment, cultural, and/or social activities.

(5) A foster parents shall teach each foster child age-appropriate personal care, hygiene, and grooming, and shall provide each child with the necessary supplies.

(6) Money earned by a child or received as a gift or allowance is the child's personal property and must be accounted for separately from foster home funds.

(7) A foster parent, in conjunction with the supervising worker, shall distinguish between tasks which children are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training.

37.51.802 Youth Foster Homes: Cooperation of Foster Parents

(1) Foster parents shall cooperate with the placing agency, implement decisions made by the department regarding the child and support the department's permanency plan for the child.

(2) Foster parents shall permit and encourage contact and visitation between the foster child and the child's birth or legal family, including parents and siblings, except in those cases where a restriction of contact and visitation is part of a court order or the written case plan.

37.51.805 Youth Foster Homes: Child Education and Training

(1) The foster parents shall cooperate with the placing agency and, when appropriate, the birth or legal parents, in providing or arranging an age-appropriate education, employment, or training program appropriate for each child that addresses the child's needs in the areas of social living, sex education, consumer education, career planning, and preparation for independent living.

(2) The foster parents shall assure that all children attend a public school unless otherwise approved by the department.

37.51.806 Youth Foster Homes: Child Religious and Cultural Expression

(1) Each child in foster care shall have the opportunity to voluntarily practice his religion. Foster parents shall allow each child to attend available religious services of the child's or birth parent's choice in the community and to visit with representatives of the child's faith.

(2) Foster parents shall respect the religious beliefs or practices of the children placed in their home.

(3) Each child shall be given the opportunity to identify with his own cultural heritage and shall be encouraged to do so.

(4) Participation or nonparticipation by the child in religious activities of the child or foster family shall not be used as a form of discipline.

37.51.810 Youth Foster Homes: Child Clothing

(1) The foster parents shall ensure that each foster child is supplied with his or her own clothing suitable to the child's age and size.

(2) Clothing must be comparable to the clothing of other children in the community.

(3) Children must be given appropriate choice in the selection of their clothing.

- (4) Clothing or other possessions that came with the child from the child's home must not be disposed of without approval from the child's social worker.
- (5) The child's current clothing and other possessions must be sent with the child to any subsequent placement, including a return to the child's home;

37.51.815 Youth Foster Homes: Child Privacy Rights

(1) The foster parents shall allow privacy for the child and shall provide appropriate sleeping arrangements, separate storage space for clothing and personal articles, and a place to display the child's socially appropriate creative works and symbols of identity.

37.51.816 Youth Foster Homes: Sleeping Arrangements and Requirements

- (1) Each foster child must sleep in a room designated as a bedroom that provides for privacy.
- (2) Any room in which the child sleeps must have a window sufficiently large for an adult to enter or exit in an emergency.
- (3) Children of the opposite sex who are five years of age or older may not share a bedroom.
- (4) Children over 24 months of age may not routinely sleep in the same room with an adult unless approved by the department foster care licensing supervisor.
- (5) A foster parent shall sleep within call of all foster children during the night or must use a baby monitor or other intercom system that will alert the foster parent to the child's call.
- (6) A foster parent shall provide each child with their own bed, which must be at least 30 inches wide and of a length that is adequate for the child's height.
- (7) A child under the age of four may be provided with a toddler bed that uses a standard crib mattress, be at least 28 inches wide, and a length that is adequate for the child's height.
- (8) Children under age two must sleep in a crib as defined in ARM 37.51.102(2).
 - (a) Foster parents shall comply with current safe sleep practices for all children under one year of age
- (9) Each bed or crib must have appropriate bedding.
- (10) Bunk beds more than two bunks high are prohibited. If bunk beds are used, the upper bunk must have a guardrail. Upper bunks may not be used by children under eight years of age.
- (11) A foster parent shall provide each space in a closet, locker, or dresser for clothing and personal belongings. This storage space must be located in the child's sleeping area.
- (12) When placement in a kinship foster home is determined to be in a child's best interests, an exception to one or more provisions (other than 8(a)) of this rule may be granted by the department after careful review of the circumstances.

37.51.820 Youth Foster Homes: Youth Independent Living Program, Job Training and Employment

- (1) Foster parents shall cooperate with the department's independent living program staff and contractors to ensure that eligible youth in foster care are encouraged and assisted to access services and benefits offered under the department's independent living program.
- (2) Foster parents shall assist the placing agency, eligible youth in foster care, and the independent living program staff and contractors in developing an appropriate transitional plan for each eligible youth in foster care youth aged 14 or older.
- (3) Foster parents shall encourage and assist each eligible youth in foster care to prepare for the transition from foster care to independent living.
- (4) Foster parents shall assist the placing agency, eligible youth in foster care, and the independent living program staff and contractors in developing the youth's job readiness skills and, when appropriate, assisting the youth in locating employment.
- (5) Foster parents shall assist eligible youth in foster care in exploring postsecondary educational opportunities.

37.51.825 Youth Foster Homes: Physical Care of Children

- (1) Foster parents shall work with the placing agency to ensure that the foster child's medical needs are met.
- (2) Every foster child must have an identified physician.
- (3) Medical and dental care, including examinations and treatment, must be obtained for children as needed.
- (4) Foster parents, in consultation with the placing agency, shall arrange for each child to have a complete early periodic screening, diagnosis, and treatment (EPSDT) well child examination which includes a medical, dental, vision and hearing screen, within 30 days of placement in foster care. Subsequent examinations and treatment must be completed as recommended by the child's physician.
- (5) Foster parents shall obtain psychiatric, psychological, and counseling services, including diagnosis and treatment, for each child when these services are determined to be necessary by the placing agency.
- (6) Foster parents shall keep the placing agency apprised of illnesses of each foster child which require medical attention, and the results of examinations, tests, and treatment recommended for each child.
- (7) All medication must be kept in the original containers labeled with the original prescription labels in a place inaccessible to children.
- (8) All medication must be given as prescribed unless a licensed health care provider rescinds the prescription or otherwise modifies it. The foster parent will notify the child's case worker of any changes in medication.
- (9) Foster parent shall work with the placing agency to ensure that each foster child is immunized in accordance with ARM 37.51.306.
- (10) In an emergency, the foster parents shall make arrangements for emergency care at a nearby hospital, clinic, or doctor's office and, as soon as possible thereafter, notify the placing agency.

(11) Foster parents may not provide tobacco products in any form to children under the age of 18 who are placed in the foster home.

(12) Foster parents may not allow children placed in the foster home to be exposed to secondhand smoke in the foster parents' home or vehicle.

(13) Nothing in (11) or (12) is meant to interfere with traditional or Native American ceremonies involving the use of tobacco.

37.51.826 Youth Foster Homes: Discipline

(1) Foster parents shall use discipline appropriate to the child's age and developmental level. The foster parents' approach to discipline must be positive.

(2) The foster parents shall not use spanking or other forms of physical punishment.

(3) The foster parents shall not use any other disciplinary technique which is humiliating, shaming, cruel, capricious, frightening, or otherwise damaging to a child.

(4) No child in care shall be subjected to any form of abuse.

(5) No child in care shall be subjected to verbal abuse, derogatory remarks about himself or members of his family, or threats to expel the child from the foster home.

(6) No child in care shall be deprived of meals, mail, or family visits as a method of discipline.

(7) Foster parents shall not punish children for bed wetting or any other toilet training issue.

(8) Children must not be placed in a locked room.

(9) Participation or nonparticipation by the child in religious activities of the child or the foster family shall not be used as a form of discipline.

(10) Medication or withholding of prescribed medication shall never be used to discipline or threaten children.

(11) If a foster parent or other household member is involved in any physical discipline of a foster child or any other violation of this rule, the foster parent must report the violation as required in ARM 37.51.609.

37.51.901 Youth Foster Homes: Environmental and Safety Requirements

(1) The foster home and its premises must be comparable to other residences of the community and neighborhood in which it is located.

(2) The home must be built or manufactured for the purpose of full-time residency.

(3) Every interior door must be designed to permit the opening of the locked door from the outside in an emergency.

(4) Protective plugs must be installed on electrical outlets in all homes occupied by foster children under five years of age.

(5) The foster parents shall keep the home clean and in good repair and the premises free from objects, materials, and conditions that constitute a danger to the occupants.

(6) Foster parents shall protect any foster child from any environmental danger or other hazard on the foster home property that the foster parent is aware of and that could affect the health, welfare, or safety of children in care. The foster parent must notify the licensing worker of any existing concern.

(7) All foster homes must be equipped or provide access to a landline or cellular telephone. Telephone numbers of the placing agency, hospital, police department, fire department, ambulance, and poison control center must be in a place visible to a child in placement.

(8) The foster home must have an adequate and safe sewage disposal system.

(9) If the home's water supply is not from a municipal system, a foster parent must arrange to, at a minimum, have a basic screen water test conducted at least annually through the Department of Public Health and Human Services, Public Health and Safety Division, Laboratory Services Bureau, Environmental Laboratory Section, Cogswell Building, 1400 Broadway, Room B-204, Helena, Montana 59620 to ensure that the water supply remains safe for human consumption. Documentation of the test results must be provided to the licensing worker. If a home's water supply is obtained from an approved source, but the water is stored in a cistern, it is recommended that a basic screen water test be conducted each time the water is replaced, and the results provided to the licensing worker.

(10) Children may not be knowingly exposed to unsafe levels of lead as determined by the Environmental Protection Agency.

(11) Cleaning materials, flammable liquids, detergents, aerosol products, and other poisonous and toxic materials must be kept in their original containers or shall be clearly labeled with both symbols and words indicating that the contents are hazardous. Such substances must be kept in a place inaccessible to children and shall be childproofed, if possible and be used in such a way that will not contaminate play surfaces, food, food preparation areas, or constitute a hazard to the children.

(12) Any pet or animal present at the home with the foster parents' permission must not pose a threat to the safety or well-being of any child placed in the home.

(a) Any pet or animal present at the home with a foster parent's permission must be vaccinated in accordance with local law.

(b) Documentation provided by a veterinarian verifying that any pet or animal belonging to a foster parent and present at the home is in good health must be provided to the department upon request.

(c) Foster parents are responsible for their negligent actions and for any resulting injuries that may be caused by any animal allowed in or around the foster home.

(13) Foster parents shall keep Guns and ammunition in locked storage with guns stored separately from ammunition. Guns kept in vehicles must be locked in the glove compartment or gun rack, must be unloaded, and ammunition must be kept locked in a separate location in the vehicle.

(14) Any outdoor play area must be maintained hazard free. If any part of the play area is adjacent to a well, machinery, road, drainage ditch, holes, or other

hazardous areas, the play area must be enclosed with fencing or natural barriers when preschool children are in placement to restrict the children from these areas.

(15) Outdoor equipment, such as climbing apparatus, slides, swings, and trampolines, must be anchored firmly, and placed in a safe location. A responsible adult must be present and directly observing any activity of a foster child on a trampoline at all times.

(16) Foster parents shall make swimming and wading pools, swimming areas and hot tubs inaccessible to children except when directly supervised by a responsible adult.

37.51.902 Youth Foster Homes: Fire Safety Requirements

(1) Two unobstructed means of exit must exist from all sleeping areas occupied by foster children.

(2) Foster parents shall devise a plan for everyone in the home to exit the home in emergencies and teach the plan to children placed in the home. T

(3) A working smoke detector that is properly maintained and regularly tested must be located in each bedroom and in the hallway leading to the bedroom with at least one smoke detector on each level of the foster home.

(4) Each foster home in which fuel burning heat or appliances are used must have at least one carbon monoxide detector installed in the home.

(5) Each foster home must have a workable portable fire extinguisher with a minimum rating of 2A10BC. Extinguishers must be readily accessible and shall be mounted.

(6) Portable unvented fuel-fired heating devices such as portable kerosene or oil heaters are not allowed.

(7) An Extension cord may not be used as permanent wiring.

(8) All wood burning stoves, pellet stoves, and fireplace inserts must meet building codes for the installation and use of such stoves. If the department identifies a possible concern regarding safety of a wood stove or fireplace, the department may require the foster home to have an inspection conducted to certify that it meets applicable codes.

37.51.1001 Youth Foster Homes: Transportation

(1) Foster parents and any person transporting foster children with a foster parent's permission must possess a valid driver's license and meet the minimum liability insurance coverage requirements set by state law.

(2) Vehicle doors must be locked whenever the vehicle is in motion.

(3) No vehicle shall begin moving until all children are seated and secured in age-appropriate safety restraints that are to must remain fastened at all times while the vehicle is in motion.

(4) Foster parents must request and receive written travel authorization before taking any child placed by the department:

- (a) out of the county for more than 72 hours;
- (b) out of the state for more than 72 hours; or
- (c) out of the country for travel at any time.

(5) Any travel that interferes with visitation, therapy, education, or other services provided to the foster child must receive prior approval

37.51.1401 Youth Foster Homes: Required Training

(1) Each applicant shall attend the required preservice training of not less than 8 hours prior to issuance of a regular license.

(2) The foster parents shall complete the resource parent online training within the first year of licensure. Verification of completion of the online training must be provided to the department

(3) The foster parents must obtain a total of at least 15 hours of training for relicensure following the first year of licensure. Training must be documented on a form provided by the department.

(4) The department will provide the foster parents notice that documentation of the training requirements is due in the materials provided by the department for relicensure.

(a) If the foster parents fail to obtain the required training hours, the license will be restricted to the care of the children in the home at the time until such time as the required training hours have been successfully completed; or

(b) If there are no children in the foster home, the license will be deemed automatically suspended until such time as the required training hours have been successfully completed.

37.51.1404 Youth Foster Homes: Training Exemptions

(1) A written exception to the required preservice training must be approved prior to licensure.

(2) A written exception to the required 15 hours of annual training must be approved prior to a license being renewed.

37.51.1405 Youth Foster Homes: Required Training Topics

(1) Annual training is intended to help the foster parents gain further understanding regarding such issues as child maltreatment, child growth and development, family dysfunction, permanency planning, emergency or long-term medical needs of children, and age-appropriate preparation of youth for independent living.

(2) Training must be provided or approved by the department and may include training on the following topics:

- (a) separation and grieving;
- (b) loss and attachment;

- (c) alternatives to physical discipline and an explanation of the department's policy on physical discipline;
- (d) positive parenting techniques;
- (e) the department's and foster parents' roles and responsibilities;
- (f) biological family rights and responsibilities;
- (g) how and why children come into foster care;
- (h) types and behaviors of children in foster care;
- (i) placement process;
- (j) confidentiality;
- (k) sexual abuse;
- (l) drugs and alcohol;
- (m) interpersonal communications;
- (n) foster parent insurance; and
- (o) other topics approved by the department.

37.51.1410 Youth Foster Homes: Required Training for Therapeutic Foster Homes

(1) Therapeutic foster parents must each complete 18 hours of orientation and preservice training and 15 hours of training described in (2)(a) and (b) before initial licensure.

(2) Each year thereafter, therapeutic foster parents must complete a total of 30 hours of annual training that may include training in the general areas identified in ARM 37.51.1405(2), but which must also include a minimum of 15 hours of training directly related to:

- (a) the special needs of youth with emotional disturbances receiving treatment for their emotional disturbance in a treatment family environment; and
- (b) the use of nonphysical methods of controlling youth to assure the safety and protection of the youth and others.

(3) Each therapeutic foster parent in a two-parent foster home must complete at least five hours of training directly related to (2) (a) and (b).

Resources

Administrative Rules: Current department administrative rules are available on the Secretary of State's website at:

<http://mtrules.org/gateway/Department.asp?DeptNo=37>

A copy of the official ARM can be obtained from the ARM Bureau of the Office of the Secretary of State, by calling (406) 444-2034.

A copy of this booklet is available on the department's website under "More Information" [Becoming a Foster Parent in Montana \(mt.gov\)](http://www.mt.gov)

Carbon Monoxide Detectors: Publications including Carbon Monoxide Detectors Can Save Lives (CPSC Document #5010) and Carbon Monoxide Questions and Answers (CPSC Document #466) are available from the Consumer Products Safety Commission at 800-638-2772 or downloaded from www.cpsc.gov.

Fire Safety: Publications including Your Home Fire Safety Checklist (CPSC Document #556) are available from the Consumer Products Safety Commission at 800-638-2772 or downloaded from www.cpsc.gov. Another source of information is the National Fire Protection Association at www.nfpa.org. (Search using "home fire safety" and "home escape planning".)

Local fire departments may also be a resource for information and assistance.

Lead: Publications including What You Should Know About Lead Based Paint in Your Home (CPSC Document #5054) and CSPC Warns About Hazards Of "Do It Yourself" Removal of Lead Based Paint: Safety Alert. (CPSC Document #5055) are available from the Consumer Products Safety Commission at 800-638-2772 or downloaded from www.cpsc.gov.

Publications are also available from the Environmental Protection Agency including Lead in Paint, Dust and Soil, Protect Your Family from Lead in Your Home and Testing Your Home for Lead in Paint, Dust and Soil available at <http://www.epa.gov/lead> Information is also available by calling 1-800-424-LEAD (National Lead Information Center).

Questions regarding lead can also be directed to county health departments.

Montana Medicaid Helpline: The helpline at 1-800-362-8312 can help you find out if a foster child is on Medicaid, if the child is in the PASSPORT to Health Program, and if the child is in PASSPORT, who the child's primary care physician is. You can also request a copy of The Member Guide ([MedicaidMemberGuide.pdf](http://www.mt.gov/MedicaidMemberGuide.pdf))

Secondhand Smoke: Publications including Secondhand Smoke in Your Home are available from the CDC (National Center for Chronic Disease Prevention and Health Promotion) at www.cdc.gov/tobacco; and Reducing the Health Risks of Secondhand Smoke from the American Lung Association at www.lung.org. Information is also available from [MTUPP](#) MONTANA TOBACCO USE PREVENTION PROGRAM

Tobacco Use Prevention Program: The Tobacco Quit Line at 866-485-QUIT (7848) is a free telephone service for Montanans and provides cessation counseling services and nicotine replacement therapy if appropriate for cigarette and spit tobacco users and educational materials for friends and family members of tobacco users.

Well Testing: Information regarding well testing, including the names of certified laboratories, may be obtained from the Department of Public Health and Human Services, Public Health and Safety Division, Laboratory Services Bureau at 1-800-821-7284 or 444-3444 or email mail to at mtphl@mt.gov or at [Environmental Laboratory \(mt.gov\)](#) Instructions and collection supplies may also be obtained from your county sanitarian' offices or from the Laboratory Services Bureau.

As a recipient of federal financial assistance and a State or local government agency, Department of Public Health & Human Services does not exclude, deny benefits to, or otherwise discriminate against any person on the basis of race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political belief, genetic information, veteran status, culture, social origin or condition, or ancestry in admission or access to, or treatment, or employment in, its programs, activities, or services, whether carried out by DPHHS directly or through a contractor or any other entity with which DPHHS arranges to carry out its programs and activities. Likewise, DPHHS will not tolerate discrimination or harassment because of a person's marriage to or association with individuals in one of the previously mentioned protected classes.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 et seq.), Section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C § 18116), Montana Human Rights Act (Title 49, M.C.A.), and Equal Employment Opportunity (EEO) and Nondiscrimination (2.21.4005 A.R.M.).

If you have questions regarding this policy or you wish to file a complaint alleging violations of this policy, please contact:

<p><u>Department of Public Health & Human Services (DPHHS)</u> <u>Margaret McNivens</u> <u>Office of Human Resources Civil Rights/EEO Coordinator</u> <u>PO Box 4210 Helena, MT 59604</u> <u>Phone: (406) 444-1386</u> <u>Fax: (406) 444-0262</u> <u>V. TTY: (800) 833-8503</u> <u>V. TTY: (406) 444-1335</u> <u>Margaret.McNivens2@mt.gov</u></p>	<p><u>Montana Human Rights Bureau (HRB)</u> <u>33 S. Last Chance Gulch, Suite 2</u> <u>PO Box 1728 Helena, MT 59624</u> <u>Phone: (800) 542-0807</u> <u>Phone: (406) 444-4356</u> <u>Fax: (406) 443-3234</u> <u>TTY: (406) 444-0532</u></p>
<p><u>Office for Civil Rights</u> <u>US Department of Health and Human Services</u> <u>1961 Stout Street, Room 08-148</u> <u>Denver, Colorado 80294</u> <u>Phone: (303) 844-7815</u> <u>Email: ocrmail@hhs.gov</u> <u>Complaint portal</u></p>	<p><u>United States Equal Employment Opportunity Commission (EEOC)</u> <u>Federal Office Building</u> <u>909 First Avenue, Suite 400</u> <u>Seattle, WA 98104-1061</u> <u>Phone: (800) 669-4000</u> <u>Fax: (206) 220-6911</u> <u>TTY: (800) 669-6820</u></p>

