

CHAPTER 112
LICENSING AND REGULATION OF CHILD FOSTER CARE FACILITIES

[Prior to 7/1/83, Social Services[770] Ch 112]
[Prior to 2/11/87, Human Services[498]]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

441—112.1(237) Applicability. This chapter relates to licensing procedures for all child foster care facilities authorized by Iowa Code chapter 237. Rules relating to specific types of facilities are located in 441—Chapter 113, “Licensing and Regulation of Foster Family Homes,” 441—Chapter 114, “Licensing and Regulation of All Group Living Foster Care Facilities for Children,” 441—Chapter 115, “Licensing and Regulation of Comprehensive Residential Facilities for Children,” and 441—Chapter 116, “Licensing and Regulation of Residential Facilities for Children with an Intellectual Disability or Brain Injury.”

This rule is intended to implement Iowa Code chapter 237.

[ARC 8010B, IAB 7/29/09, effective 10/1/09; ARC 3185C, IAB 7/5/17, effective 9/1/17; ARC 4793C, IAB 12/4/19, effective 1/8/20]

441—112.2(237) Definitions.

“*Administrator*,” when used for matters related to licensing, means the administrator of the division of adult, children and family services.

“*Administrator’s designee*,”

1. For group facilities, the administrator’s designee is the chief of the bureau of child welfare and community services.

2. For foster family homes, the designee is the department of human services’ service area manager.

“*Applicant*,”

1. For a foster family home license, the applicant is the person or persons applying.

2. For a proprietary facility, the applicant is the owner or designee of the facility.

3. For facilities having a board of directors, the applicant may be the president of the board or the board’s designee.

“*Community residential facility*” means a facility which provides care for children who are considered unable to live in a family situation due to social, emotional or physical disabilities but are capable of interacting in a community environment with a minimum amount of supervision. The facility provides 24-hour care including board and room. Community resources are used for education, recreation, medical, social and rehabilitation services. The facility is responsible for planning the daily activities of the children, discipline, guidance, peer relationships, and recreational programs.

“*Comprehensive residential facility*” means a facility which provides care and treatment for children who are unable to live in a family situation due to social, emotional, or physical disabilities and who require varying degrees of supervision as indicated in the individual service plan. Care includes room and board. Services include the internal capacity for individual, family, and group treatment. These services and others provided to the child shall be under the administrative control of the facility. Community resources may be used for medical, recreational, and educational needs. Comprehensive residential facilities have higher staff to client ratios than community residential facilities and may use control rooms, locked cottages, and mechanical restraints when these controls meet licensing requirements.

“*Foster family home*” means a home in which an individual person or persons or a married couple who wishes to provide or is providing, for a period exceeding 24 consecutive hours, board, room, and care for a child in a single family living unit.

“*Group facility*” means a community residential facility, a comprehensive residential facility, or a residential facility for children with an intellectual disability.

“*Residential facility for children with an intellectual disability or brain injury*” means any residential facility which serves children with an intellectual disability as defined in Iowa Code chapter 222 or children with brain injury as defined in Iowa Code chapter 225C.

This rule is intended to implement Iowa Code sections 237.3 and 237.5.

[ARC 3185C, IAB 7/5/17, effective 9/1/17; ARC 4793C, IAB 12/4/19, effective 1/8/20]

441—112.3(237) Application for license.

112.3(1) Right to apply. Any adult individual or agency has the right to apply for a license.

a. Foster family care. A person wishing to apply to be a foster parent shall contact the department's recruitment and retention contractor in the applicable service area to request an application packet. This procedure also applies to:

(1) Persons wishing to care for children placed through any public or private agency.

(2) A relative who is caring for a child directly placed by the child's parents, guardians, or another relative and who wishes to be licensed as a foster parent.

b. Group care. A person wishing to apply for a group care license may contact the department:

(1) Using the "Contact Us" link found on the department's Internet site at dhs.iowa.gov; or

(2) By mail to the Iowa Department of Human Services, Division of Adult, Children and Family Services, Attn: Group Care Licensing, 1305 East Walnut Street, Des Moines, Iowa 50319-0114.

112.3(2) Decision to operate a facility.

a. When an applicant has reached a decision to operate a foster family home, the applicant shall complete Form 470-0689, Foster Family Home License Application.

b. When an applicant has reached a decision to operate a group facility, the applicant shall complete Form 470-0723, Application for License or Certificate of Approval.

112.3(3) Withdrawal of an application. The applicant shall report the withdrawal of an application promptly to the department.

112.3(4) Evaluation of the application. Each application will be evaluated by the department to ensure that all standards are met.

a. Before it results in adverse action, a founded abuse report on a director, a sole proprietor involved in the facility's operation, or any facility staff or foster parent applicant shall be evaluated by the department to determine if the abuse merits prohibition of employment or licensure.

b. The department shall evaluate all founded child abuse on a case-by-case basis. Considerations shall include, but not be limited to:

(1) The facility's response (e.g., immediate termination of involved staff).

(2) Whether the abuse was an isolated incident or is symptomatic of a broader, systemic problem.

112.3(5) Reports and information. Requested reports and information relevant to the licensing determination shall be furnished to the department by the applicant.

112.3(6) Applications for renewal.

a. The department or its agent shall send the licensee an application for renewal 90 days before the license expires. Applications for license renewal shall be made on the form specified in subrule 112.3(2).

b. Applications for renewal shall be made at least 30 but no more than 90 days before the license expires. Applications for renewal of a group care license shall be submitted to the address in subparagraph 112.3(1)"b"(2). Applications for renewal of a foster family home license shall be submitted to the recruitment and retention contractor.

c. The department shall approve or deny an application for license renewal through the same process as that used for the original application.

112.3(7) Notification.

a. Foster family homes.

(1) The department shall notify an applicant of the approval or denial of an initial license within 140 days of the date that the applicant begins the preservice training required in 441—subrule 113.8(1). When preservice training is waived, the department shall notify the applicant of approval or denial within 120 days of the date that the training waiver is granted.

(2) The department shall notify a licensee of the approval or denial of license renewal within 90 days of reapplication.

b. Group facilities. The department shall notify a group facility of approval or denial of a license within 90 days of application or reapplication.

This rule is intended to implement Iowa Code section 237.5.

[ARC 8010B, IAB 7/29/09, effective 10/1/09; ARC 3185C, IAB 7/5/17, effective 9/1/17; ARC 4793C, IAB 12/4/19, effective 1/8/20]

441—112.4(237) License.

112.4(1) A new license shall be obtained when the licensee moves or the facility is remodeled.

112.4(2) A new license shall be requested when the facility wishes to be licensed for a different number of children.

112.4(3) When corrective action is completed on or before the date specified on a provisional or renewal license, a full license shall be issued for the remainder of the licensure term.

112.4(4) When the corrective action is not completed by the date specified on a provisional or renewal license, a full license shall be denied.

112.4(5) The department shall issue Form 470-0727, Certificate of License, without cost to any foster family that meets the standards. The department shall issue Form 470-3623, Certificate of License, without cost to any group facility that meets the standards. The department may offer consultation to assist applicants in meeting the standards.

112.4(6) A foster family home license shall be approved for a term of one year for the first and second years of licensure. Thereafter, the license shall be approved for a term of two years unless it is determined by the administrator that a one-year license shall be issued. A group facility license shall be approved for a term of one to three years according to the following criteria:

a. A one-year license may be approved for all new facilities that meet licensure standards.

b. A one- to two-year license may be approved when it is determined:

(1) Some health or safety concerns have been identified; or

(2) Some complaints against a facility have been substantiated; or

(3) Deficiencies have been identified.

c. A three-year license may be approved when:

(1) No health or safety deficiencies have been identified;

(2) There have either been no substantiated complaints against the facility or, if substantiated, complaints have been determined not to be serious or severe; and

(3) A facility has no founded incidents of child abuse by facility staff.

This rule is intended to implement Iowa Code sections 237.3 and 237.5.

[ARC 0356C, IAB 10/3/12, effective 12/1/12; ARC 3185C, IAB 7/5/17, effective 9/1/17; ARC 4793C, IAB 12/4/19, effective 1/8/20]

441—112.5(237) Denial.

112.5(1) The department shall deny the license application when:

a. The minimum standards set forth in these rules are not met and a provisional license is inappropriate or disapproved by the administrator or administrator's designee.

b. For just cause.

c. The applicant, as a sole proprietor or a foster family home parent, or any person residing in the foster family home other than a foster child, or any facility staff, has been convicted of a crime unless an evaluation of the crime has been made by the department which concludes that the crime does not merit prohibition of employment or licensure.

d. The applicant, as a sole proprietor or foster family home parent, or any person residing in the foster family home other than a foster child, or any facility staff, has a record of founded child abuse unless an evaluation of the founded abuse has been made by the department which concludes that the abuse does not merit prohibition of employment or licensure.

e. The application is fraudulent, which means that the applicant has knowingly made fraudulent statements or has knowingly concealed information.

112.5(2) Reapplications shall be denied:

a. For the same reasons as original applications.

b. For the same reasons as listed in the grounds for revocation.

c. When the foster family applicant's license has been denied or revoked within the 12 months before the date of reapplication. Denial for this reason does not require a licensing study.

d. If the foster family refuses to engage as a resource to a foster child's birth parents when engagement can be done in a way that does not put the foster family or the foster child at risk of harm.

This rule is intended to implement Iowa Code section 237.5.

[ARC 8010B, IAB 7/29/09, effective 10/1/09; ARC 4793C, IAB 12/4/19, effective 1/8/20]

441—112.6(237) Revocation.

112.6(1) *Mandatory.* The department shall revoke the license for the following reasons unless subrule 112.6(3) applies:

- a. When the facility is misusing funds furnished by the department.
- b. When the facility is operating without due regard to the health, sanitation, hygiene, comfort, or well-being of the children in the facility.
- c. When the director or sole proprietor involved in the operation of the facility, or foster parent, or any person residing in the foster home other than a foster child, or any facility staff has been convicted of a crime unless an evaluation of the crime has been made by the department which concludes that the crime does not merit prohibition of employment or licensure.
- d. When there is a founded abuse report on a foster family home parent, any person residing in a foster family home other than a foster child, a director or sole proprietor who is involved in the facility's operation, or any facility staff, unless an evaluation of the founded abuse has been made by the department which concludes that the abuse does not merit prohibition of employment or licensure.
- e. Rescinded, effective November 1, 1987.

112.6(2) *Optional.* Licenses may be revoked for any of the following reasons unless subrule 112.6(3) applies:

- a. When moving to a new home, the foster family fails to notify the department and the recruitment and retention contractor within seven working days of the move to a new home.
- b. Rescinded, effective July 1, 1987.
- c. The foster family or facility fails to meet any or all requirements of the placement agreement.
- d. Rescinded, effective July 1, 1987.
- e. Rescinded, effective July 1, 1987.
- f. The child foster care facility fails to continue to comply with all of the licensing requirements in both law and regulation.
- g. The foster family or the staff of a licensed group facility refuses to cooperate with an unannounced visit.

112.6(3) *Exceptions.* The license for a foster family home shall not be revoked when there are 30 or fewer days until the date the license expires.

The foster family home shall be advised in writing that a reapplication may be denied and the reasons for the possible denial. The foster family home license may be suspended immediately pursuant to rule 441—112.9(237).

This rule is intended to implement Iowa Code sections 237.3 and 237.5.

[ARC 2069C, IAB 8/5/15, effective 10/1/15]

441—112.7(237) Provisional license.

112.7(1) *Time frame for provisional licenses.* The administrator may issue a provisional license for not more than one year when a licensee's facility does not meet the requirements of this chapter and the licensee submits a written corrective action plan that is approved by the administrator to bring the facility into compliance with the applicable requirements.

112.7(2) *Written report.* The administrator or the administrator's designee will provide a report identifying the reasons for the provisional license and the standards that have not been met.

112.7(3) *Corrective action plan.* The facility shall furnish the licensing agency with a plan of action to correct deficiencies listed that resulted in the provisional license. The plan shall give specific dates upon which the corrective action will be completed.

This rule is intended to implement Iowa Code section 237.5.

[ARC 4793C, IAB 12/4/19, effective 1/8/20]

441—112.8(237) Adverse actions. Notice of adverse actions and the right to appeal the licensing decision shall be given to applicants and licensees in accordance with 441—Chapter 7. Any issues of placement or payment are independent of the licensing decision and right of appeal.

This rule is intended to implement Iowa Code section 237.5.

441—112.9(237) Suspension.

112.9(1) *Types of suspension.* There are two types of suspension of a license.

a. Emergency suspensions are to prevent persons from providing foster care by suspending their license until it is revoked or denied.

b. Time-limited suspensions are to prevent persons from providing foster care by suspending their license until a deficiency in the home or facility is corrected.

112.9(2) *Requirements for emergency suspension.* The emergency suspension of a license by the administrator or administrator's designee shall occur only when all of the following conditions exist:

a. The licensee fails to meet licensing requirements.

b. There are sufficient grounds for revocation or denial of the license.

c. The health, safety, and welfare of any child placed in the home or facility requires immediate action.

d. The existence of the condition requiring suspension is documented in the licensee's record.

112.9(3) *Requirements for time-limited suspensions.* The time-limited suspension of a license by the administrator or administrator's designee shall occur only when all of the following conditions exist:

a. The licensee fails to meet licensing requirements.

b. The health, safety, and welfare of any child placed in the home or facility requires immediate action.

c. The existence of the condition requiring suspension is documented in the licensee's record.

d. The condition requiring the suspension can be corrected by the licensee to meet licensing requirements.

e. If the condition were corrected, a full license would be issued.

f. The licensee signs a written statement acknowledging the existence of the condition, citing the law or rule violated, and making a commitment to correct the condition within a specific time period, not to exceed the period of the license.

112.9(4) *Effective period of suspensions.* A suspension shall be effective on the date the notice is received by the licensee and shall remain in effect until one of the following occurs:

a. The department withdraws the suspension due to a change in conditions in the home or facility.

b. The court orders the license reinstated.

c. The action is reversed by a final decision in accordance with 441—Chapter 7.

d. For emergency suspensions, a revocation or denial becomes effective and the license is rescinded.

e. The licensing period expires.

f. For time-limited suspensions, the period of suspension ends.

112.9(5) *Method and content of notice.* The notice of suspension shall be sent by restricted certified mail or personal service and shall include the following:

a. The condition requiring the suspension.

b. The specific law or rule violated.

c. The type of suspension.

d. For an emergency suspension, the adverse action being sought by the department.

e. For a time-limited suspension, the duration of the suspension.

112.9(6) *Right to appeal suspension.* The licensee has the right to appeal the suspension of the license, but initiation of an appeal does not alter the suspension.

This rule is intended to implement Iowa Code sections 237.3 and 237.5.

[ARC 8010B, IAB 7/29/09, effective 10/1/09; ARC 4793C, IAB 12/4/19, effective 1/8/20]

441—112.10(232) Mandatory reporting of child abuse and training.

112.10(1) *Mandatory reporters.* All defined in Iowa Code section 232.69 who, in the scope of professional practice or in their employment responsibilities, examine, attend, counsel, or treat a child and reasonably believe a child has suffered abuse shall make a report in accordance with Iowa Code section 232.69 whenever the provider reasonably believes a child for whom the provider is providing foster care has suffered abuse.

112.10(2) *Required training.* Mandatory reporters shall receive training relating to the identification and reporting of child abuse as required by Iowa Code section 232.69.

112.10(3) *Training documentation.* Each licensee shall develop and maintain a written record for each mandatory reporter in order to document the content and amount of training.

This rule is intended to implement Iowa Code section 232.69.

[ARC 8010B, IAB 7/29/09, effective 10/1/09; ARC 3185C, IAB 7/5/17, effective 9/1/17; ARC 4793C, IAB 12/4/19, effective 1/8/20]

441—112.11(237) Required training on the reasonable and prudent parent standard. Each group facility shall have an on-site official authorized to apply the reasonable and prudent parent standard as defined in rule 441—202.1(234). Within one year of being identified as an authorized on-site official, each authorized official shall complete the same department-approved training on the reasonable and prudent parent standard in the same manner as required for prospective foster parents and referenced in 441—subrule 117.1(4).

[ARC 2069C, IAB 8/5/15, effective 10/1/15; ARC 3185C, IAB 7/5/17, effective 9/1/17]

441—112.12(237) Record checks. Record checks as defined in 441—Chapter 114 are required for any entity being considered for licensure or employment by a licensee on a facility campus where children reside to determine whether any applicant has any founded child abuse reports or criminal convictions or has been placed on a sex offender registry.

This rule is intended to implement Iowa Code section 237.8.

[ARC 4793C, IAB 12/4/19, effective 1/8/20]

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