



NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of Regulations of the Division of Child and Family Services

AGENDA

Date: January 15, 2021 at 9:00 A.M. – Adjournment

NOTICE IS HEREBY GIVEN that the Division of Child and Family Services will hold a public hearing to consider amendments to Chapter 424 of Nevada Administrative Code (NAC), Foster Homes for Children. This Public hearing is to be held on January 15, 2021 at 9:00 A.M.

The hearing will be conducted via videoconference beginning at 9:00 A.M. on January 15, 2021 at the following locations:

Location of Hearing:

Virtual meeting via videoconference

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This meeting will be conducted without a physical location and the notices in libraries are not currently available in accordance with Governor Sisolak's Declaration of Emergency Directive 006 which can be found at the end of this notice.

AGENDA

1. Public hearing presentation on proposed amendments to NAC Chapter 424 LCB File No. R110-19.
2. Public Comment on proposed amendments to NAC Chapter 424 LCB File No. R110-19.
3. **For Possible Action:** Consideration and adoption of proposed amendments to NAC 424 LCB File No. R110-19.
4. Public Comment.

The proposed changes to Chapter 424 of the Nevada Administrative Code include the following:

Various changes to NAC 424, Foster Homes for Children, which include but are not limited to: written assurances to be submitted by the foster care provider regarding complying with requirements concerning discipline, substance use, and parental judgement; specific requirements regarding the home study; requirements that the foster care provider be able to communicate with foster children; revisions to the required training foster care providers; prohibition of co-sleeping with an infant; certain requirements for swimming pools at foster homes; prohibition of smoking in the direct presence of foster children; and immunization requirements. The proposed changes to NAC 424, Foster Homes for Children are described in their entirety in the LCB File No. R110-19.

1. Anticipated effects on the business which NAC 424 regulates:
 - a. *Adverse effects:* There will be a cost to small business owners to implement two of the proposed changes and additional licensure requirements for all persons licensed under NAC 424.

- b. *Beneficial effects*: Nevada Administrative Code will be in compliance with the National Model Family Foster Home Licensing Standards issued by the Children’s Bureau as best practice standards for licensing foster care providers. Nevada will retain the ability to draw federal Title IV-E foster care maintenance payments.
2. Anticipated effects on the public:
 - a. *Adverse*: None.
 - b. *Beneficial*: None.
 - c. *Immediate*: None.
 - d. *Long-Term*: none.
3. The estimated cost to the Division of Child and Family Services for enforcement of the proposed regulations include: None.
4. The proposed regulations do not overlap or duplicate any other Nevada state regulations.
5. The regulation changes are required to comply with Federal Model Licensing Standards.
6. The regulation does not include provisions that are more stringent than any Federal requirement.

Persons wishing to comment upon the proposed action by the Nevada Division of Child and Family Services may appear at the scheduled public hearing or may address their comments, data, views, or arguments in written form to, Division of Child and Family Services, Attn: Molly Blanchette, 4126 Technology Way, Carson City, NV 89706 or by email to mblanchette@dcfs.nv.gov. Written submissions must be received by the Nevada Division of Child and Family Services by **January 1, 2021**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Nevada Division of Child and Family Services may proceed immediately to act upon any written submissions.

Members of the public can contact the DCFS office by email at mblanchette@dcfs.nv.gov to request a copy of the notice and proposed regulations be mailed to them or that an electronic copy be provided. This notice and the text of the proposed regulation are available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233.0653, and on the internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

In accordance with Nevada Governor Sisolak’s Declaration of Emergency Directive 006 (Emergency Directive 006, extended by Emergency Directive 029 for the duration of the state of emergency), the meeting may be done without physical locations and the notices in the libraries and other locations are not currently available.

- As per Nevada Governor Sisolak’s Declaration of Emergency Directive 006; Subsection 3: The requirements contained in NRS 241.020 (4) (a) that public notice agendas be posted at physical locations within the State of Nevada are suspended.
- As per Nevada Governor Sisolak’s Declaration of Emergency Directive 006; Subsection 4: Public bodies must still comply with requirements in NRS 241.020 (4) (b) and NRS 241.020 (4) (c) that public notice agendas be posted to Nevada’s notice website and the public body’s website, if it maintains one along with providing a copy to any person who has requested one via U.S. mail or electronic mail.
- As per Nevada Governor Sisolak’s Declaration of Emergency Directive 006; Subsection 5: The requirement contained in NRS 241.020 (3)(c) that physical locations be available for the public to receive supporting material for public meetings is suspended.
- As per Nevada Governor Sisolak’s Declaration of Emergency Directive 006; Subsection 6: If a public body holds a meeting and does not provide a physical location where supporting material is available to the public, the public body must provide on its public notice agenda the name and contact information for the person designated by the public body from whom a member of the public may request supporting material electronically and must post supporting material to the public body’s website, if it maintains one.

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

A copy of the regulations and small business impact statement can be found online by going to:

<http://www.dafs.nv.gov> or <https://www.leg.state.nv.us/App/Notice/A/>

Per NRS 233B.064(2), upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify Molly Blanchette, in writing, no later than five (5) working days before the hearing via email at mblanchette@dafs.nv.gov

Agenda Virtual Posting Locations include: <http://www.dafs.nv.gov> or <https://www.leg.state.nv.us/App/Notice/A/> and sent by email to the administrators of Washoe County Human Services Agency and Clark County Department of Family Services.

Attachments: Small Business Impact Statement
LCB File No. R110-19



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD AND FAMILY SERVICES
4126 TECHNOLOGY WAY, SUITE 300
CARSON CITY, NV 89706
Telephone (775) 684-4400 / Fax (775) 684-4455
dcfs.nv.gov

August 7, 2019

Small Business Impact Statement

Proposed Regulations

NAC 424-FOSTER HOMES FOR CHILDREN

(Prepared Pursuant to Nevada Revised Statutes 233B.0608)

Pertaining to

Proposed Amendments per the federal Family First Prevention Services Act of 2018 (FFPSA); *National Model Foster Family Homes Licensing Standards* to the Nevada Administrative Code (NAC) Chapter 424 – *Foster Homes for Children*; Nevada’s Licensing Regulations and Standards for Foster Homes

The new standards in the proposed revisions to NAC 424 – *Foster Homes for Children* is a result of the requirement for states to comply with the recently established requirements within the FFPSA *National Model Family Foster Home Licensing Standards*. In order to maintain Nevada’s ability to bill for the maintenance costs of caring for children in foster care, through the Federal Social Security Act Title IV-E, must be in compliance with the new FFPSA requirements.

1. A description of the manner in which comment was solicited from affected small businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

On July 23, 2019, the 22 foster care agency owners, who may be impacted by changes to NAC 424, were emailed the proposed changes to NAC 424 and asked to complete a Small Business Impact Survey no later than August 2, 2019 regarding the effect that these proposed changes may have on their small business. A reminder was also sent out to the small business owners on July 30, 2019 to complete the questionnaire.

1. A total of five (5) questionnaires were completed by the small business owners.
2. Three of the small business owners did not believe there would be any impact to their small business.
3. One small business owner mentioned that they will have to purchase carbon monoxide detectors, but that it was not a significant issue.
4. One small business owner expressed concern with the term ‘excessive’ as used in the proposed language, where it states, “*No use of illegal substances, abuse of alcohol by consuming it in excess, or abuse of prescription or non-prescription medications.*” The owner’s concern was

that the term could be open to interpretation differently by different individuals. The owner's hope would be that the language changes to "DUI" or something tangible, enforceable, and that holds everyone accountable; suggesting we are writing regulations that will be disruptive or hold no meaning.

This Small Business Impact Statement summary is in its entirety.

2. The manner in which the analysis was conducted.

The Division of Child and Family Services Foster Care Program Specialist determined that NAC 424 currently meets the majority of the requirements identified in the *National Model Family Foster Home Licensing Standards*. However, a few minor language additions were necessary to be in full compliance. All revisions made to NAC 424 will better ensure the safety of Nevada's children and the occupants of the foster home. Only two (2) revisions may have a minimal fiscal impact to a small business; to include, 1) the cost to purchase carbon monoxide detectors, and 2) cost of certain caregiver immunizations. The Specialist also analyzed the results of the completed Small Business Impact Questionnaires.

3. The estimated economic effect of the proposed regulation on the small business which it is to regulate including without limitation both adverse and beneficial effects and both direct and indirect effects.

- *When asked in the Small Business Impact Survey if there will be specific areas of the proposed regulation that will have an adverse economic effect upon your business, all responded "No."*
- *When asked will specific areas of the proposed regulation have any beneficial economic effect upon your business, all responded "No."*
- *When asked, do you anticipate any direct effects upon your business, all responded "No."*
- *When asked, do you anticipate any indirect effects upon your business, four (4) responded "No"; however, one responded "Yes" based upon the response given in #1(d) above regarding "abuse of alcohol by consuming it in excess"*

4. A description of the methods that the DCFS considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used those methods.

The only identified impact in the proposed regulations is: "*No use of illegal substances, abuse of alcohol by consuming it in excess, or abuse of prescription or non-prescription medications.*" This is the exact language as written within the *National Model Family Foster Home Licensing Standards*. It would be difficult to change the proposed language for a couple of reasons:

1. The Nevada child welfare agencies need to comply with the requirements in the FFPSA/Federal Title IV-E to remain eligible to receive federal funding for foster care maintenance costs,
2. There is not a reasonable means to be able to list all of the possible forms of evidence of "abuse of alcohol by consuming it in excess", though this term may appear to be a subjective concept, here are links to the definition of 'excess' in the Merriam-Webster and Cambridge English Dictionaries:
 - a. <https://www.merriam-webster.com/dictionary/excess>
 - b. <https://dictionary.cambridge.org/us/dictionary/english/excess>

5. The estimated cost to the agency for enforcement of proposed regulations.

At this time, there is no known increase to costs incurred by the agency for enforcement of the proposed regulations.

6. Total amount the agency which provides child welfare services expects to collect from any fees and the manner in which the money will be used.

The proposed regulations do not implement any additional or increase in fees.

7. An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.

No duplication or stringent provisions were created within the proposed regulations.

8. The reasons for the conclusions of the agency regarding the impact of the proposed regulation on small business.

It is the conclusion of DCFS that there is no significant impact from the proposed regulation on small business.

By my signature below, I certify that, to the best of my knowledge, the information contained in this statement was prepared properly and is accurate.

Ross Armstrong, *DCFS Administrator*

Date

DRAFT

**PROPOSED REGULATION OF THE DIVISION OF
CHILD AND FAMILY SERVICES OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES**

LCB File No. R110-19

January 6, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1, 2, 4-6 and 8-15, NRS 424.020; §3, NRS 424.020 and 424.040; §7, NRS 424.020 and 424.0365.

A REGULATION relating to foster homes; revising requirements governing the licensure and operation of foster homes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Child and Family Services of the Department of Health and Human Services, in consultation with each agency which provides child welfare services in a county whose population is 100,000 or more, to adopt regulations governing the licensure of foster homes. Existing law also requires the Division, in cooperation with the State Board of Health and the State Fire Marshal, to establish minimum standards for foster homes and rules for the regulation of foster homes. (NRS 424.020) Existing law requires a foster home to be licensed by: (1) in a county whose population is 100,000 or more, the agency which provides child welfare services; or (2) in all other counties, the Division. (NRS 424.030) **Sections 1, 2 and 5** of this regulation require each application for the issuance or renewal of a license to operate a foster home to include written assurances that the applicant will comply with certain requirements concerning discipline, substance use and parental judgement.

Existing regulations require a licensing authority representative to investigate each foster home after receiving an application for the licensing of the foster home. (NAC 424.120) **Sections 3 and 4** of this regulation require such an investigation to include a written home study that consists of: (1) an in-home interview of the applicant; (2) an inquiry into the ability of the applicant to meet the needs of a foster child; (3) an in-home assessment of the family or staff, as applicable; (4) an interview or observation of other members of the household or staff, as applicable and if determined to be necessary; and (5) the submission of certain medical information concerning members of the family or staff, as applicable.

Section 6 of this regulation requires foster parents and staff to be able to communicate with foster children, the agency which provides child welfare services, providers of health care and other providers of services. **Section 6** also requires that at least one foster parent or staff member be capable of understanding and following directions on the label of any medication. **Section 7** of this regulation revises the required subject matter of training required for an applicant for a license to operate a foster home.

Section 8 of this regulation prohibits the sharing of a sleeping surface with an infant in a foster home, and **section 11** of this regulation removes redundant language. **Section 9** of this regulation requires a foster home to have at least one carbon monoxide detector near each sleeping area and on each floor of the foster home. **Section 10** of this regulation requires any swimming pool at a foster home that cannot be emptied after each use to have a working pump and filtration system

Existing regulations allow an infant born to a child in foster care to be accepted to reside at the foster home if: (1) the mother is also in foster care; (2) the case plan is approved by the mother and his or her caseworker prior to the placement; (3) the mother of the child is actively involved in the day-to-day care and supervision of the child; and (4) certain other requirements are met. (NAC 424.470) **Section 11** revises these requirements to instead allow the infant to reside at the foster home of either parent if those requirements are met.

Existing regulations require a foster home to secure prior approval from the agency with responsibility for the child before taking the child out-of-state for overnight or longer. (NAC 424.490) **Section 12** of this regulation revises this requirement to apply only to trips of longer than 48 hours.

Existing regulations prohibit smoking in a foster home and in the direct presence of foster children. (NAC 424.500) **Section 13** of this regulation additionally prohibits smoking in a vehicle used to transport foster children.

Existing regulations require all children residing in the foster home to be currently immunized against diseases according to the recommendations set forth by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services. (NAC 424.555) **Section 14** of this regulation creates an exception to this requirement if a licensed physician, physician assistant or advanced practice registered nurse determines that such immunizations are not recommended for the child because of a medical condition.

Existing regulations require a licensee to develop for the foster home a written plan for responding to a disaster or other emergency and to keep the plan in a central location inside the foster home. (NAC 424.615) **Section 15** of this regulation removes the requirement that the plan be kept in a central location in the foster home and instead requires the plan to be posted in a prominent place in the foster home.

Section 1. Chapter 424 of NAC is hereby amended by adding thereto a new section to read as follows:

In addition to any other requirements for the issuance or renewal of a license to operate a foster home, the applicant or licensee, as applicable, must provide to the Division written assurances that he or she will:

- 1. Refrain from engaging in corporal or degrading punishment, including, without limitation, disciplinary techniques described in NAC 424.530;*
- 2. Refrain from using illegal substances, engaging in excessive consumption of alcohol and consuming medication in an illegal or improper manner;*
- 3. Refrain from smoking under circumstances prohibited by NAC 424.500; and*
- 4. Comply with the reasonable and prudent parent standard.*

Sec. 2. NAC 424.110 is hereby amended to read as follows:

424.110 1. Any person or agency who wishes to operate a foster home must contact the appropriate licensing authority representative for an application and return the completed application to the licensing authority.

2. When a person or agency applies for a license, the application must include information on the person or agency applying for the license, the director and the staff, as applicable [.] , *and the written assurances required by section 1 of this regulation.*

3. The director or licensee of the foster home is responsible for interviewing each prospective member of the staff and submitting a copy of each employment application and resume to the licensing authority upon request.

4. Intentional misrepresentation or omission of information on a foster home application is cause for the immediate denial of the application or revocation of the license. Such a denial or revocation is not subject to appeal.

Sec. 3. NAC 424.120 is hereby amended to read as follows:

424.120 1. A licensing authority representative shall conduct a fair and impartial investigation of each foster home after receipt of an application for the licensing of the home, and shall ~~investigate~~ :

(a) *Investigate* the home to determine whether the licensing requirements are met and the maximum capacity and range of ages of children for which the home may be licensed. ~~The licensing authority representative shall gather direct and collateral data to complete the licensing study.~~

(b) *In collaboration with the applicant, conduct a written home study of the family that resides in the proposed foster home or staff of the proposed foster home, as applicable, that consists of:*

(1) *An in-home interview of each applicant and, if there is more than one applicant, an additional interview and assessment of both applicants together.*

(2) *An inquiry into any factors that the licensing authority representative determines are necessary to assess the ability of the applicant to meet the needs of any foster child who will reside in the foster home.*

(3) *An in-home assessment to observe the functioning of the family or staff, as applicable, and assess the ability of the applicant to meet the needs of any foster child who will reside in the foster home.*

(4) If the licensing authority representative determines that it is necessary, an interview or observation of other members of the household or staff, as applicable and as appropriate for the age and development of the persons being interviewed or observed.

(5) The submission of:

(I) Results from a medical examination of the applicant conducted within the immediately preceding 12 months conducted by a licensed physician, physician assistant or advanced practice registered nurse indicating that the applicant is physically, mentally and emotionally capable of caring for foster children.

(II) A medical history of each adult member of the household or staff, as applicable, which includes a description of any past or current mental health issue or substance use disorder experienced by the member.

(III) For any member of the household or staff, as applicable, who will provide care to an infant in foster care, proof that the member has received the recommended immunizations for pertussis and influenza according to the recommendations set forth by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services or a written statement from a licensed physician, physician assistant or advanced practice registered nurse that such immunizations are not recommended for the member because of a medical condition. The recommendations for pertussis are available at no cost on the Internet at <https://www.cdc.gov/vaccines/vpd/dtap-tdap-td/hcp/recommendations.html>. The recommendations for influenza are available at no cost on the Internet at <https://www.cdc.gov/flu/prevent/vaccinations.htm>.

(IV) For any member of the household or staff, as applicable, who will provide care to a foster child with special medical needs, proof that the member has received the recommended immunization for influenza according to the recommendations set forth by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services or a statement from a licensed physician, physician assistant or advanced practice registered nurse that such immunization is not recommended for the member because of a medical condition. The recommendations are available at no cost on the Internet at <https://www.cdc.gov/flu/prevent/vaccinations.htm>.

2. A licensing authority representative may visit the foster home at any time, announced or unannounced, to determine compliance with licensing requirements and must be available for consultation as appropriate. The licensing authority representative shall visit each foster home at least once annually. That visit may be conducted as part of the initial issuance of a license and annually thereafter.

~~2.1~~ 3. The director or licensee of each foster home shall submit such reports as the agency which provides child welfare services requires.

Sec. 4. NAC 424.165 is hereby amended to read as follows:

424.165 Before the licensing authority grants an initial license to operate a foster home, the following minimum requirements must be met:

1. A satisfactory report about the applicant from a local law enforcement agency and submittal of fingerprints pursuant to NRS 424.033;

2. A satisfactory report from the Statewide Central Registry established pursuant to NRS 432.100 on all applicants and members of the household who are 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594;

3. At least one visit by a licensing authority representative to the foster home to determine that the home is safe;

4. *Satisfactory completion of the written home study required by paragraph (b) of subsection 1 of NAC 424.120;*

5. Receipt of a signed foster home application form;

~~5.~~ 6. Documentation of contact, either verbal or written, with five satisfactory references;

~~6.~~ 7. Satisfactory completion of the training specified in subsections 1, 2 and 5 of NAC 424.270; and

~~7.~~ 8. Records concerning employees and residents must be maintained pursuant to NRS 424.034.

Sec. 5. NAC 424.180 is hereby amended to read as follows:

424.180 **1.** A licensee wishing to renew its license to operate a foster home shall apply to the licensing authority for renewal at least 60 days before the license expires. *The application for renewal must include, without limitation, the written assurances required by section 1 of this regulation.*

2. A licensing authority representative shall study the foster home and the license must be renewed if all licensing requirements are met.

3. If the codes for fire and life safety as adopted by the State Fire Marshal or local fire authority change, the foster home will be allowed 90 days to comply with the new requirement.

Sec. 6. NAC 424.255 is hereby amended to read as follows:

424.255 Foster parents and staff must:

1. Be competent adults with a demonstrated ability to exercise sound judgment and decision making. Their character, integrity and conduct must be above reproach, especially with regard to their role as foster caregivers.

2. Be willing to cooperate with the agency in establishing and carrying out agency goals for the child by:

(a) Providing pertinent information about the child and the needs of the child that the foster parents and staff have gained by caring for the child on a daily basis; and

(b) Assisting in meeting any identified needs of the child.

3. Possess skills necessary to provide a nurturing and caring home and family environment.

4. Welcome each foster child into the foster home as a full member of the family and treat each foster child equally to any children of the foster parent who reside in the foster home, including, without limitation, when according benefits and privileges.

5. Be kind and respectful when communicating and interacting with the child and the family of the child and discussing the family of the child.

6. Have knowledge and understanding of the needs of the child for well-being, safety and permanency.

7. Be flexible to best meet the needs of the child.

8. Present a positive image of fostering to the community.

9. Maintain good relationships with each member of the community who is involved with the child and the family.

10. Be professional in each action taken as a foster parent and caregiver and be a positive role model for each foster child when engaging in daily activities, making decisions, setting boundaries and modeling behaviors.
11. Communicate effectively and respectfully with each person involved in the care of a foster child and respect differences and opinions of others.
12. Accept additional feedback and participate in additional training to increase the foster parent's or staff member's knowledge and ability to care for a child with unique needs.
13. When safe and appropriate, work directly with the parents or other family members of a child in support of the best interests of the child and the permanency goal of the child.
14. Possess realistic expectations regarding behaviors of children who have experienced past trauma and be able to remain calm during the emotional and behavioral outbursts of a child.
15. Set appropriate verbal and physical boundaries with foster children and their families.
16. Recognize and celebrate milestones in the life of a foster child, including, without limitation, birthdays, graduations and holidays.
17. Demonstrate sound judgment by making mindful and careful decisions.
- 18. Be able to communicate with any child placed in the foster home, the agency which provides child welfare services and providers of health care and others who provide services to a child placed in the foster home. At least one foster parent or member of the staff must be capable of understanding and following directions on the label of any medication.***

Sec. 7. NAC 424.270 is hereby amended to read as follows:

424.270 1. Except as otherwise provided in this section, applicants for a license to operate a foster home must attend at least 8 hours of training ~~[in foster parenting provided or]~~ approved

by the agency which provides child welfare services ~~[I]~~ *in the subjects described in NRS 424.0365, laws and regulations applicable to foster parenting, the structure of agencies which provide child welfare services, childhood trauma, the importance of family relationships and other meaningful relationships and basic first aid, including, without limitation, training in the administration of cardiopulmonary resuscitation.* If the home has a pool, hot tub or other freestanding body of water, the applicants must obtain information on water safety , *pool safety* and the risk of drowning . ~~[and must also complete training in pool safety and receive certification in cardiopulmonary resuscitation.]~~

2. Except as otherwise provided in this section, foster parents shall attend at least 4 hours annually of training in foster parenting which is provided or approved by the agency which provides child welfare services.

3. The annual training or portions of the annual training required by subsection 2 may for good cause, as determined by the agency which provides child welfare services, be obtained from another agency that places foster children, as a substitute for the training provided by the agency which provides child welfare services, if at least one foster parent participates in the training and the training has been preapproved by the agency which provides child welfare services.

4. A family foster home which is licensed to provide foster care for a specific, licensed child-placing agency may receive the training required by subsections 1 and 2 through that agency.

5. In addition to the training required by subsections 1 and 2, applicants for a license to operate a foster home must receive training in how to use and apply the reasonable and prudent

parent standard to provide normalcy for foster children when making decisions authorized by NAC 424.573. The training required by this subsection must be provided or approved by the agency which provides child welfare services.

6. In addition to the training required by subsections 1, 2 and 5, a licensee that operates a foster home must receive, not later than 90 days after initial licensure and annually thereafter, training concerning working with lesbian, gay, bisexual, transgender and questioning children.

7. The requirements of this section are not applicable to any person who is subject to the requirements of NAC 424.712 and 424.714 and completes the training or continuing education required by those sections.

Sec. 8. NAC 424.375 is hereby amended to read as follows:

424.375 1. Foster children must sleep in a room, designated as a bedroom, which must ensure privacy. Closets, partitioned rooms and similar areas are unacceptable areas for children to sleep. No child may be allowed to sleep in a detached building, unfinished attic or basement, stair hall or room commonly used for other than bedroom purposes.

2. Rooms used by children for sleeping must have adequate floor space between beds to allow foster children and other persons to easily access beds and exits.

3. Dormitories housing more than six children are not allowed. Single rooms must be provided for those children whose behavior or development makes it desirable for them to have a single room.

4. Except as otherwise provided in this subsection, children of the opposite sex who are 5 years of age or more must not share a bedroom, and children who are more than 12 months of age must not sleep in the same room with an adult. If a written recommendation by a provider of

health care, psychologist, clinical social worker, clinical professional counselor or a child and family team is provided to the licensing authority, the licensing authority may authorize children who are 5 years of age or more to share a room or a child who is more than 12 months of age to sleep in the same room with an adult. A child of the foster parents who is 18, 19 or 20 years of age may share a room with a foster child of the same sex and similar age if this arrangement is appropriate based upon the circumstances and needs of each child. A child in foster care who is the parent of a child in the same placement may share a room with that child.

5. The foster parents' bedroom must be located on the same floor as the bedroom of any child who is less than 5 years of age.

6. Except as otherwise provided in this subsection, each child must be provided with his or her own bed, which must be at least 27 inches wide and of a length which is adequate for the child's height, and the bottom of which is elevated off the floor. Siblings of the same sex may share a double bed.

7. Each bed must have a comfortable and supportive mattress in good condition, a pillow, sheets and coverings and, as needed, waterproofing sufficient for the child's comfort.

8. Bunk beds with more than two bunks are prohibited. If bunk beds are used, the upper bunk must have a guardrail. Upper bunks must not be used by children who are less than 6 years of age.

9. A complete change of bed linens must be supplied at least once a week or more often if necessary.

10. Each child must have access to a closet, locker or dresser for clothing and personal belongings in his or her sleeping area.

11. Bedroom furnishings must not be set up in such a manner as to obstruct a clear exit from a door or window.

12. Each crib must meet the standards prescribed in 16 C.F.R. Part 1219 or 1220, as applicable, and be equipped with a firm crib mattress that properly fits the crib. An infant must always be placed on his or her back to sleep and must not be:

(a) Allowed to sleep on a soft or semisoft surface, including, without limitation, a sofa, waterbed, large pillow or bean bag.

(b) Placed in a crib containing any loose item, including, without limitation, a comforter, quilt, blanket, stuffed animal, crib bumper, wedge, pillow or other loose bedding.

(c) Allowed to sleep with another person on the same sleeping surface, which may include, without limitation, a bed, sofa or chair.

13. As used in this section, “provider of health care” means a physician, advanced practice registered nurse, physician assistant or homeopathic physician.

Sec. 9. NAC 424.400 is hereby amended to read as follows:

424.400 1. All foster homes must have operating, portable fire extinguishers on each story of the structure. Each fire extinguisher must:

(a) Have a minimum rating of 2-A 10BC.

(b) Be mounted or readily available as designated by the licensing authority representative pursuant to the State Fire Marshal’s instructions.

(c) Be located within 75 feet of traveling distance from any point within the foster home.

(d) Be in working order.

2. The licensing authority may require at least a type 13-D sprinkler system in any foster home which has three or more nonambulatory persons, or which provides care to three or more children who are less than 18 months of age or to five or more children who are less than 6 years of age.

3. Any portable fire extinguishers, alarm systems and sprinkler systems must be serviced and tagged annually by a company which is appropriately licensed by the State Fire Marshal.

4. Every foster home must have smoke detectors which conform to the *International Building Code*, in the form most recently published by the International Code Council, which is hereby adopted by reference and is available free of charge at the Internet address **<http://codes.iccsafe.org>**. The smoke detectors must be located in every room where foster children sleep and mounted on a ceiling or wall at a point centrally located in a corridor or area giving access to rooms used for sleeping. Where sleeping rooms are located on an upper level of a building, a smoke detector must be placed at the center of the ceiling directly above the stairway. The smoke detectors may be battery operated or may receive their primary power from the building wiring.

5. Foster homes with 10 or more occupants must meet all requirements for fire extinguishers and alarms as are determined by the State Fire Marshal following an inspection of the foster home.

6. *A foster home must have at least one carbon monoxide detector located near any area where a child regularly sleeps and at least one carbon monoxide detector on each floor of the home, regardless of whether a child regularly sleeps on the floor.*

7. A foster home that provides care to a child who requires a wheelchair, stretcher or other special accommodations for exiting must have two exit doors and an accessible ramp which meets the requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.

~~7.7~~ 8. The Division will review each revision of the publication adopted by reference in subsection 4 to ensure its suitability for this State. If the Division determines that a revision is not suitable for this State, the Division will hold a public hearing to review its determination within 6 months after the date of the publication of the revision and give notice of that hearing. If, after the hearing, the Division does not revise its determination, the Division will give notice within 30 days after the hearing that the revision is not suitable for this State. If the Division does not give such notice, the revision becomes part of the publication adopted by reference in subsection 4.

Sec. 10. NAC 424.420 is hereby amended to read as follows:

424.420 1. Any standing body of water on the premises of a foster home must be maintained in a condition that is healthy and safe for children. The water in any pond used for swimming must be maintained in a healthy and sanitary condition.

2. Except as otherwise provided in this subsection, a foster home that has an empty water feature or standing body of water on the premises and is licensed to care for any child who is less than 5 years of age must provide a fence on all sides of the empty water feature or standing body of water, separating it from the general yard area. If the empty water feature or standing body of water is adjacent to an area of an outside wall of the foster home that has no windows or doors, the wall may function as part of the fence. A fence is not required for a hot tub on the premises

of a foster home described in this subsection if the hot tub has a protective cover that is kept in place and locked when the hot tub is not in use.

3. The fence required by subsection 2 must:

(a) Be at least 4 feet high on all sides.

(b) Have no vertical opening more than 4 inches wide.

(c) Be of such a design that young children cannot climb it or squeeze under it. The use of a chain link fence is prohibited.

(d) Not obstruct the view of the empty water feature, standing body of water or surrounding area from the house.

(e) Have a gate that is self-closing, with a self-latching mechanism which is in proper working order and out of the reach of young children.

4. If a foster home is licensed to care only for children who are 5 years of age or more:

(a) Except as otherwise provided in paragraph (b), the area surrounding an empty water feature or standing body of water must be fenced and locked in a manner which prevents access by children or others who are not entitled to be on the premises; or

(b) If the area surrounding the empty water feature or standing body of water is not fenced, there must be a locked, protective cover which will not allow access by a child. Any pool cover must be free from standing water.

5. A reaching pole with a life hook, and a ring buoy, must be present and accessible at all times as minimum safety devices unless the standing body of water is such that a person supervising a child is able, without entering the water, to reach the child in the water and remove the child by hand.

6. Steps leading to an above-ground pool must be removed when the pool is not in use.
7. Any sauna or tanning booth on the premises of a foster home must be locked in a manner which prevents access by children.
8. *If a swimming pool cannot be emptied after each use, the pool must have a working pump and filtration system.*
9. If a wading or inflatable pool is used, it must be constructed, maintained and used in a manner which safeguards the lives and health of the children. A wading or inflatable pool must be emptied when not in use or comply with all regulations applicable to a *pool or other* standing body of water.

~~9.]~~ **10.** If a foster home has access to a community pool, the foster parents and staff shall ensure that a child does not enter the pool area unless:

- (a) The child is under the direct supervision of a foster parent or staff member; and
- (b) The pool is equipped with a reaching pole with a life hook and a ring buoy.

~~10.]~~ **11.** As used in this section:

- (a) “Empty water feature” includes, without limitation, an empty pool.
- (b) “Standing body of water” includes, without limitation, any lake, pond or in-ground or above-ground pool, hot tub or large stationary bird bath.

Sec. 11. NAC 424.470 is hereby amended to read as follows:

424.470 Infants born to children in foster care may be accepted to reside at the foster home if:

1. The ~~mother is~~ *parent* also *resides* in *the* foster ~~care.]~~ *home*.
2. Such action is consistent with the case plan.

3. The infant presents no medical or other problems which would place the infant at risk in such a setting.

4. Sufficient equipment for caring for infants is available on-site.

5. The infant is considered as one of the total number of children for which the facility is licensed. The license issued must encompass the age of the infant.

6. The presence of the infant has no detrimental effect on the program and other children in foster care.

7. The plan is approved by the ~~mother~~ parent and *his or* her caseworker prior to the placement.

8. The ~~mother~~ parent of the child is actively involved in the day-to-day care and supervision of ~~her~~ the child.

9. The infant sleeps in a crib in a manner that complies with the requirements of NAC 424.375. ~~{The infant must not share a bed.}~~

Sec. 12. NAC 424.490 is hereby amended to read as follows:

424.490 1. The foster home shall maintain the home and vehicles in safe operating condition.

2. The foster home shall provide transportation of a foster child to necessary appointments or arrange for such transportation unless an extreme emergency within the foster home prevents making such arrangements.

3. The foster home shall secure prior approval from the agency with responsibility for the foster child before taking the child out-of-state or on a trip or vacation which will require the child to be away from the family home for ~~{overnight or}~~ longer ~~{.}~~ *than 48 hours.*

4. Any person who provides transportation to a foster child:
 - (a) Must possess at least the minimum liability insurance coverage required by state law;
 - (b) Shall observe state law regarding child restraint systems and seat belts at all times when transporting a foster child; and
 - (c) Shall observe all other laws of this State concerning the operation of a motor vehicle.
5. If the foster home is located in an area without access to public transportation, the foster home must have a working vehicle that can safely transport all of the children living in the home at one time in case of an emergency.

Sec. 13. NAC 424.500 is hereby amended to read as follows:

424.500 1. A foster home shall:

- (a) Provide a safe, stable and nurturing environment.
- (b) Encourage a child's autonomy, respect a child's privacy and consider a child's preferences or choices when providing care, supervision, guidance or instruction.
- (c) Provide care that is respectful toward the beliefs, interpersonal styles, attitudes, behaviors and culture of a child and his or her family.
- (d) Employ direct care staff who are knowledgeable about and understanding of children who have greater physical or emotional needs.
- (e) Provide effective supervision and employ staff who possess the vitality, interest and understanding to meet the needs of a child in the care of the foster home. Prospective staff must be selected based upon their ability to care for a foster child with consideration of the ages and needs of any other children in the care of the foster home.

(f) Employ staff who have the ability to work with and guide a child within a group setting or individually. Staff must possess the physical and emotional health to carry out the responsibilities of caring for a child.

(g) Work cooperatively with the agency which provides child welfare services, teachers and other professionals to meet the needs of a child.

(h) Accurately observe and record each child's progress in the foster home.

(i) Provide care, training and guidance to the children in its care and assist those children in learning to control inappropriate patterns of behavior.

(j) Cooperate with the agency which provides child welfare services to ensure that children placed in the foster home receive quality, nurturing parenting and are able to experience normalcy in their daily lives.

(k) Ensure that all decisions concerning children are made using the reasonable and prudent parent standard in the manner prescribed in NAC 424.573 and in accordance with the requirements of this chapter and chapter 424 of NRS.

(l) Comply with all requirements of NRS 432.500 to 432.550, inclusive.

2. The foster home shall plan activities that provide for and stimulate social relationships, creative activities and hobbies. Children must be afforded an opportunity to participate in neighborhood, school and other community groups appropriate to the age and needs of each child, which may include, without limitation:

(a) Activities that promote leisure or play;

(b) Activities that promote self-expression and communication;

(c) Appropriate physical exercise to encourage development of gross and fine motor skills;

- (d) Activities to encourage mental or intellectual stimulation and development;
- (e) Activities appropriate to the child's ethnicity or culture;
- (f) Indoor and outdoor recreational activities;
- (g) Activities that promote appropriate socialization and relationships with others; and
- (h) Activities that promote normalcy for the child.

3. The foster parent must be nonjudgmental regarding the child's parents and the family of the child.

4. The foster parent shall:

(a) Assist the agency which provides child welfare services with transporting the child to necessary appointments, meetings or other required travel.

(b) Attend any appointment related to the health of the child with the child unless other arrangements are approved by the caseworker of the child.

5. The foster parent shall assist the agency which provides child welfare services to ensure that the child is provided with ongoing visitation and contact with siblings or other family members, if requested by the caseworker of the child.

6. The foster home shall see that each child observes curfew and all other requirements specified by law.

7. Smoking is prohibited in a foster home, *in a vehicle used to transport foster children* and in the direct presence of foster children.

Sec. 14. NAC 424.555 is hereby amended to read as follows:

424.555 1. Group foster homes shall adopt a written policy on the services for health care and treatment, and shall follow the policy.

2. The foster parents or direct care staff shall closely observe children for signs of illness.

3. ~~[All children]~~ *Each child* residing in the foster home must be currently immunized against diseases according to the recommendations set forth by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services ~~[§]~~, *unless a licensed physician, physician assistant or advanced practice registered nurse determines that such immunizations are not recommended for the child because of a medical condition.* The recommendations are available at no cost on the Internet at <http://www.cdc.gov/vaccines/schedules/hcp/imz/child-adolescent.html>.

4. The services of specialists for treatment and consultation will be obtained when referred by a licensed practitioner and approved by the agency placing the child.

5. The licensee shall ensure that any program of medication, physical therapy, special exercises or other activity prescribed by a licensed medical practitioner for a child in the care of the foster home is adhered to.

6. A dental health program must be designed to effect good oral hygiene, education and practice.

7. No foster care provider may have a child tested for the acquired immune deficiency syndrome virus without the consent of the agency which provides child welfare services or the agency placing the child.

Sec. 15. NAC 424.615 is hereby amended to read as follows:

424.615 1. A licensee shall develop for the foster home a written plan for responding to a disaster or other emergency. The plan must be consistent with the plan developed pursuant to NRS 432.410 by an agency which provides child welfare services that has placed a child in the

foster home. A copy of the plan developed by the licensee must be submitted to the licensing authority. The plan must be ~~kept in a central location~~ *posted in a prominent place* inside the foster home, must be readily available for review and, to the extent it does not conflict with the plan developed pursuant to NRS 432.410 by an agency which provides child welfare services, must include:

- (a) The manner in which to evacuate the foster home and the designation of an alternate location where the members of the foster home, including, without limitation, any child with a disability or special medical needs, may reside during an evacuation;
- (b) The manner in which an evacuation will proceed if a child is at school or otherwise away from the foster home, and a description of the plan for any such child;
- (c) A list of important telephone numbers, including, without limitation, alternate telephone numbers for the licensing authority, the staff of the foster home and an agency which provides child welfare services or other agency or person who has placed a child in the foster home;
- (d) A plan for communicating before, during and after an evacuation, if possible, with any person or entity having physical custody of a child in the foster home;
- (e) A description of the manner in which the licensee will receive information from emergency management personnel, and the manner in which the licensee or staff will coordinate with emergency personnel and juvenile courts, as required;
- (f) A list of critical items to take, if possible, when evacuating the foster home, including, without limitation, medication, medical cards and medically necessary equipment for any child with a disability or special medical needs; and

(g) A description of the manner in which the licensee will make services available to children in the foster home to address the emotional impact of the emergency.

2. The licensee shall ensure that each child placed in the foster home, each family member residing in the foster home, if any, and the staff of the foster home are informed about where the plan is kept and receive training about the plan and the appropriate response in the event of a disaster or other emergency. The plan must be reviewed with a child within 7 days after the child is placed in the foster home.

3. The licensee shall update the plan at least annually and submit a copy of the updated plan to the licensing authority. At each annual visit by the licensing authority, the licensee shall make the current plan available for review by the licensing authority representative. The licensing authority shall review the plan and verify that it contains the information required by this section.

4. The licensing authority shall develop and provide to any applicant or licensee an example of a plan which meets the requirements of this section.

5. As used in this section, “disaster” has the meaning ascribed to it in NRS 432.400.