

## **CHAPTER 114.**

### **DEPARTMENT OF SOCIAL SERVICES**

(Statutory Authority: 1976 Code Title 43; Section 20-7-852)

#### **SUBARTICLE 5.**

#### **FOSTER CARE**

(Statutory Authority: 1976 Code Section 43-1-80)

#### **114-550. Licensure for Foster Care.**

##### **A. Definitions.**

(1) Foster Care--This is care for children in the custody of the South Carolina Department of Social Services who must be separated from their parents or guardians. It is a temporary living arrangement within the structure and atmosphere of a private family home (kin and non relative), or a group home, emergency shelter, residential facility, child care institution, or pre adoptive home, and is utilized while permanent placement plans are being formulated for the involved children.

(2) Board Payments--These are monthly funds appropriated for daily care and maintenance for eligible children in foster care.

(3) The Foster Family--A family that is generally composed of a father and mother, but may be widowed, divorced or single adults, who are licensed by SCDSS, and who are mutually interested in and evidence a capability to care for foster children.

(4) Kinship Care Foster Family--This is a relative family that has been identified and licensed to provide foster care for a specified child or children. Unless otherwise stated, the term foster parent or foster family includes kinship foster care parents and families.

(5) Assessment Study--This is the actual documentation of the assessment study of a family or related family applying to provide foster care services, completed by designated agency staff of the South Carolina Department of Social Services or designated staff of a child placing agency.

(6) Child Placing Agency--For the purposes of these regulations, any person or entity who holds legal or physical custody of a child for the purpose of placement for foster care or adoption or a private placement, or a person or entity who facilitates the placement of children for the purpose of foster care or adoption or a private placement and, which for the purpose of these regulations, retain their own system of foster homes, is a child placing agency. Homes assessed by child placing agencies are licensed in accordance with the Department of Social Services

licensing regulations and issued a license by SCDSS.

(7) Agency--South Carolina Department of Social Services.

(8) Foster child--for the purposes of these regulations, a child in the custody of SCDSS.

(9) Household member--for the purposes of licensing interviews and assessment, an individual who spends significant amounts of time (as defined by SCDSS or the child placing agency) in an applicant's household, can be considered a household member.

### **B. Applications.**

(1) An application form shall be completed by all foster families desiring to be licensed and relicensed.

(2) Applicants must supply thorough, complete and accurate information. Incomplete or erroneous information or violation of regulations can be grounds for denial of an application, revocation of a current license or denial of a renewal.

(3) SCDSS or a licensed child placing agency reserves the right to request and consider additional information if needed during the licensing or renewal process. This additional information may be considered during the licensing or renewal decision-making process.

### **C. Licensing Procedure.**

(1) Any application for licensure pursuant to these regulations shall be studied by SCDSS or a licensed child placing agency.

(2) A decision regarding each application for a license shall be made within 120 days subsequent to the date the standard application is completed by the applicant(s) and is received by SCDSS or the child placing agency. If SCDSS or the child placing agency has requested information that has not been received within 120 days, then the decision is stayed pending receipt of all information.

(3) An initial Standard license shall be issued or denied by the director of SCDSS or his/her designee based on the result of the assessment study and recommendation of SCDSS or child placing agency.

### **D. Licenses.**

(1) The issued license shall not be transferable from either the address or foster family specified on the license.

(2) A Standard license shall be issued when all requirements of these regulations are met. A

Standard license is valid for two years from the date of issuance.

(3) A Standard with Temporary Waiver license may be issued for up to 90 days. The utilization of this type of license is warranted when SCDSS or the child placing agency is acting in the best interest of children already in placement and for whom stability is necessary. The Standard with Temporary Waiver license shall include language that reflects the expiration period and the reason for the temporary waiver. No additional children may be placed during temporary waiver periods. Standard with Temporary Waiver licenses can be issued under the following circumstances:

(a) A standard licensed foster parent moves to a new home and SCDSS or child placing agency is waiting to receive written documentation that the fire and health inspections have been completed and any noted deficiencies have been corrected; or

(b) A standard license has previously been issued to a foster family and subsequently a household member reaches the age of eighteen years, or a new adult household member has entered the home since licensure, and SCDSS or child placing agency is waiting to receive written clearance on all background checks for that individual.

(4) A Standard-Exceeds Maximum Number Allowed license may be issued when a standard licensed foster parent receives placement of more children than allowed under requirements due to SCDSS or child placing agency trying to preserve unity of a sibling group or making an adoptive placement. This license can continue until the number of children again satisfies licensing requirements.

(5) No license issued shall be effective for more than two years from the date of issuance. Subsequent relicensure studies must be completed prior to the expiration of the last license.

(6) A foster home shall not be licensed for more than five (5) children, including the foster parents' own children and/or other children who are household members unless SCDSS or child placing agency is keeping siblings together or the placement has been court ordered.

(7) Foster Home licensure by more than one agency, or by more than one division within an agency, is not permitted.

#### **E. Assessment Study.**

(1) Each prospective foster family shall be assessed by designated staff of SCDSS or by designated staff of a licensed child placing agency.

(2) Such assessment shall be conducted in order to determine:

(a) Whether the applicant(s) complies with licensing requirements and standards;

- (b) For which gender and age range of children the home can be licensed;
  - (c) Whether the prospective foster parents fully understand the purpose of foster care; and
  - (d) Applicant(s) and other household members ability to provide quality foster care.
- (3) All members of the household over six years of age shall be assessed and interviewed in order to determine their willingness to accept a child and to evaluate the stability of the family unit.
- (a) A minimum of one family interview, and one interview per individual, shall be conducted in the home with the prospective applicant, spouse, their children and other household members.
  - (b) The applicant and spouse shall provide information to SCDSS or the child placing agency staff that enables the licensing staff to interview adult children of the applicant and spouse.
- (4) Documentation for the assessment summary at a minimum includes the following issues:
- (a) motivations to foster parent;
  - (b) preferences related to placements;
  - (c) family history, relationships, parenting experiences, and coping ability;
  - (d) educational, health, and work history of family members;
  - (e) information on other household members, adult children, and related children not in the physical custody of the applicant or spouse;
  - (f) home environment and community resources;
  - (g) completion of preparation training;
  - (h) results of CPS/Sex Offender/SLED and FBI background checks;
  - (i) compliance with all requirements;
  - (j) income is reasonably secure and not dependent on board payments;
  - (k) appropriateness of day care arrangements for foster children; and
  - (l) family's overall understanding of the purpose of foster care and ability to provide quality foster care.

(5) The assessment summary and the SCDSS or child placing agency's recommendation shall be explained to the applicant. If SCDSS or the child placing agency is not recommending licensure, the applicant family should be offered the opportunity to elect to withdraw their application. If the applicant elects to continue their request to be licensed and if the application is denied, the reason(s) for the denial shall be provided in writing. The applicant shall be advised regarding the right to appeal.

#### **F. Working Foster Parents.**

(1) If foster parents are employed outside the home, a written statement outlining a total plan of care, including plans for any necessary emergency care for the child, shall be submitted by the foster family.

(2) Individuals who are to provide child care on behalf of employed foster parents must be interviewed by SCDSS or child placing agency staff prior to the issuance of a Standard license to a foster home.

#### **G. The Requirements for Licensing of a Foster Family.**

(1) The following requirements shall be met prior to the issuance of a Standard license to provide foster care:

(a) Background checks shall be documented including a review of abuse and neglect history, criminal history found with SLED and the FBI, and the Sex Offender Registry.

(i) The applicant(s) cannot be considered for licensure if an applicant and/or any household member over age eighteen has a substantiated history of child abuse and/or neglect and/or convictions of those crimes listed in SC Code 20-7-1642 and/or is listed on the SC Sex Offender Registry.

(ii) The applicant(s) may be considered for licensure if an applicant and/or any household member over age eighteen has a conviction, or has been pardoned for a conviction of an offense other than those offenses listed in SC Code 20-7-1642. The Director of SCDSS or his/her designee shall review the conviction or pardoned conviction taking into account the nature of the offense(s), any implications of the offense which have bearing on the individual having access to foster children; the length of time that has elapsed since the conviction(s); the applicant's life experiences indicating reform or rehabilitation during the ensuing period of time; and the fitness and ability to perform as a caregiver or the degree of risk which an individual may pose to children placed in the home. The Director of SCDSS or his/her designee shall document the basis of the decision to approve applicant in light of applicant's and/or household member's criminal record.

(2) The applicant(s) shall be able to access community services and activities.

(3) The applicant's home and property shall be inspected by licensing or child placing agency staff, State Fire Marshal authorities, and health authorities.

(a) A fire inspection by State Fire Marshal authorities who are required or permitted to inspect and enforce fire regulations must be conducted prior to the initial standard licensure.

(b) Annual fire inspections are required thereafter.

(c) A health inspection by such health authorities who are required or permitted to inspect and enforce health and sanitation regulations must be conducted prior to the initial licensure and as needed thereafter.

(d) Additional fire and health inspections are required if there is a change in residence.

(e) Additional fire and health inspections may be required if there are structural changes made to a residence or if such an inspection is deemed necessary by SCDSS or the licensed child placing agency.

(f) Any deficiencies must be corrected prior to initial licensure and/or relicensure.

(4) The applicants/foster parents shall:

(a) Be at least twenty one years of age or older. Age of foster parents should be considered only as it affects their ability to care for children within the age group applicant has expressed an interest in, and in relation to the probable duration of placement of a particular child.

(b) Have knowledge of the needs of children, be capable of meeting the needs of foster children and provide adequate foster care services;

(c) Be capable of handling an emergency situation;

(d) Be cooperative with SCDSS or child placing agency staff in furthering the best interest of the child; and

(e) Provide all relevant and factual information to SCDSS or the child placing agency.

(5) Foster parents must each have a minimum of fourteen (14) hours of appropriate foster care pre service training and which includes training on licensing requirements and expected standards of care prior to licensure commencing January 1, 2003.

(a) The foster parents will each subsequently be required to complete a minimum of fourteen (14) hours training each year, or twenty (28) hours prior to each subsequent relicensure commencing January 1, 2003.

(b) Viewing standard television programs or reading popular news or magazine articles will not be accepted for training hours and the training shall be provided by SCDSS or via another source which is approved by SCDSS.

(6) The applicant's or current foster family's income shall be reasonably secure and not dependent upon foster care boarding payments. The family shall supply verifiable information on family income and expenditures whenever requested to do so by SCDSS or the child placing agency.

(7) All applicants and household members shall submit an initial medical report by a duly licensed physician or licensed nurse practitioner verifying that such individuals are in reasonably good health, including an evaluation as to any communicable or contagious diseases. If deemed necessary by SCDSS or the child placing agency, additional medical reports may be required.

(a) If applicant/household member has sought treatment for issues related to mental health or drug or alcohol abuse, such information must be disclosed to SCDSS or the child placing agency during the assessment. Applicants shall only be licensed after consultation between SCDSS or the child placing agency staff and appropriate therapist, counselor or physician, if applicable, of the applicant/household member to obtain a history of rehabilitation and to assess the potential effects on their ability to care for children placed in the home.

(b) SCDSS or the child placing agency has the authority to request a psychological report on an applicant or household member, at the expense of the applicant, pursuant to securing information during the assessment study process that could indicate a need for professional consultation.

(c) Applicants/household members will execute the necessary releases to allow SCDSS or the child placing agency to access this information.

(8) A minimum of three written letters of reference shall be initially obtained in regard to foster parent applicants.

(a) If deemed necessary by SCDSS or the child placing agency, additional references may be required.

(b) should have known the applicants three years prior to the application and, unless specifically requested, should not be related to the applicants.

#### **H. The following standards of care shall be maintained by foster families.**

Failure to comply with one or more of these standards of care may result in removal of foster children from the home and revocation of the foster home license:

(1) The child's daily routine shall be planned to promote the development of good health habits.

(2) Each child shall be provided with adequate health and hygiene aids.

(3) Space for a child's possessions shall be provided.

(4) The foster family home shall be able to comfortably accommodate a foster child as well as their own family.

(a) Each child in care shall be provided with his or her own bed and storage space, however same sex siblings may be allowed to share a bed or storage.

(b) No child may routinely share a bed or a bedroom with an adult and except for a child under one year of age, a child must not share a bedroom with an adult unless SCDSS or the child placing agency staff document extenuating circumstances exist.

(c) Children of opposite sex sleeping in the same bed must be limited to siblings under the age of four years. Children of opposite sex sleeping in the same room must be limited to children under the age of four years.

(d) Children shall sleep within calling distance of an adult member of the family, with no child sleeping in a detached building, unfinished attic or basement, stairway, hall, or room commonly used for other than bedroom purposes.

(e) No biological children of the foster family shall be displaced and made to occupy sleeping quarters prohibited in (b), (c) and (d) above because of a foster child being placed in the home.

(f) The top level of bunk beds shall not be used for children under the age of six years.

(5) If deemed appropriate by SCDSS or the child placing agency, the foster family will cooperate in assuring that foster children are able to maintain regular contact with their birth parents, siblings, and other significant relatives.

(6) Unless advised otherwise by the responsible agency, each foster child shall be prepared by foster parents to eventually leave the home.

(7) Foster parents shall follow instructions and suggestions of providers of medical and health related services. If receiving medication, a child's prescription shall be filled on a timely basis and medications will be administered as prescribed, and otherwise be kept secured.

(8) Foster parents shall obtain emergency medical treatment immediately as need arises, and shall notify SCDSS and child placing agency staff, no later than 24 hours of receiving such care.



(a) If the primary source of payment for medical care is Medicaid, foster parents must insure that the child's card is accessible at all times.

(b) Foster parents should contact SCDSS for coordination of any elective or non-emergency surgical procedures as far in advance of the procedure(s) as possible.

(c) Any injuries sustained by a foster child must be reported as they occur and no later than 24 hours of incident.

(9) Foster parents are responsible for notifying SCDSS and child placing agency staff as soon as possible when a critical incident has occurred such as:

(a) Death of any child in the home;

(b) Attempted suicide by the child;

(c) Child is caught with a weapon or illegal substance;

(d) Child is charged with a juvenile or adult offense;

(e) Child is placed on homebound schooling or is suspended or expelled from school;

(f) Child has left the home without permission and has not returned.

(10) School attendance shall be in accordance with State law requirements and be in accordance with the ability and in the best interest of the child.

(a) The foster parents will assure that each foster child has access to education, educational opportunities and related services. Foster parents must emphasize the value of education and encourage and support children in their care to fully participate in educational activities;

(b) SCDSS will choose school foster child attends.

(c) SCDSS will not pay for costs associated with private tuition.

(d) Unless extenuating circumstances exist, foster parents shall not home school foster children. SCDSS must approve any such plan.

(11) Religious education shall be in accordance with the expressed wishes of the natural parents, if such wishes are expressed.

(12) All discipline must be reasonable in manner, moderate in degree and responsibly related to the child's understanding and need.

(a) Discipline should be constructive or educational in nature (e.g. withdrawal of privileges).

(b) Cruel, inhumane and inappropriate discipline is prohibited. This would include but not necessarily be limited to the following: head shaving or any other dehumanizing or degrading act; prolonged/frequent deprivation of food or serving foster children meals which are not as nutritionally adequate as those served to other family members or requiring children to be isolated from other family members when eating, deprivation of mail, slapping or shaking; a pattern of threats of removal from the home as punishment; disciplining a child for a medical or psychological problem over which he/she has no control (e.g. bedwetting, stuttering, etc.).

(c) All foster homes are subject to South Carolina laws relating to child abuse and neglect.

(d) The use of corporal punishment as a form of discipline is prohibited.

(13) Tasks which are assigned to foster children shall be appropriate to the ability of the child, similar to responsibilities assigned to other children, and geared toward teaching personal responsibility.

(14) Foster parents must assist older foster adolescents in their care in learning skills that are necessary for successful independent living.

(15) Varied recreational activities shall be available to each child.

(16) Infants and children shall not be left without competent supervision.

(17) Foster parents, in conjunction with SCDSS, shall keep a life book/scrapbook on each foster child placed in their home. Children's records and reports shall be kept confidential and shall be returned to SCDSS when a foster child leaves the foster home.

(18) Firearms and any ammunition shall be kept in a locked storage container except when being legally carried upon the foster parent's person; being used for educational, recreational, or defense of self or property purposes by the foster parent; or being cleaned by the foster parent.

(19) Applicant must be able to secure/supervise access to in ground or above ground swimming pools and maintain adequate supervision during periods of swimming.

(20) Fire escape plans must be developed, posted and routine drills conducted.

(21) A plan for how the family will respond and travel in the event of a disaster (e.g., a hurricane evacuation) must be developed and shared with SCDSS or child placing agency.

(22) All pets must be kept current with rabies vaccinations and proof of such provided. Pets must not pose a safety concern. SCDSS or the child placing agency will determine what

constitutes a safety concern.

(23) Applicants and current licensed families must make themselves reasonably available on an ongoing basis to SCDSS or the child placing agency for statutorily required contacts or other contacts SCDSS or the child placing agency deems necessary. SCDSS or the child placing agency has the right to make unannounced visits, and talk to any foster child on an as needed basis.

(24) Board payments shall be utilized but not limited to reimbursement for a foster child's board, school expenses, food, clothing, incidentals, minor medical needs and other expenses.

(25) A foster home shall not provide full time care for more than five (5) children, including the foster parents' own children and/or other children who are household members unless SCDSS or the child placing agency is keeping siblings together or making an adoptive placement or the placement has been court ordered.

(a) No more than two (2) infants (age birth to one year) shall be placed in the same foster home without prior approval from SCDSS or child placing agency management staff.

(b) No foster home shall exceed the number of children stipulated on their issued license without permission from SCDSS or child placing agency staff.

(c) No foster home shall accept children referred by another public or private source without obtaining the permission of SCDSS or child placing agency staff prior to the actual placement.

(26) When a home is licensed to provide care for an unmarried mother, a plan for medical and hospital care, as well as appropriate protection from community stresses associated with pregnancy, must be made.

(27) A foster family is required to notify SCDSS or child placing agency staff of any significant change in the family/home including, but not limited to, any structural changes in the home; plans involving a change of residence; any major changes in the health of anyone living in the home; change in marital status and the addition of any occupants to the home; significant changes in finances; and criminal and/or child abuse allegation charges and/or investigations.

(28) No unrelated lodger or boarder shall be allowed to move into a foster home without the agency's concurrence. Foster children may be placed or remain in a foster home where there is an unrelated lodger or boarder or room mate after necessary safety checks have been made and written concurrence obtained by SCDSS or the child placing agency. Anyone over the age of eighteen years and living in the home must undergo a fingerprinting, SLED, Sex Offender, and CPS check. If children are already in placement, an affidavit must be submitted by the household member confirming there is no record. The license must be amended to a Standard with Temporary Waiver until the results of the submitted checks have been received.

(29) Applicants or current foster families must advise SCDSS or the child placing agency staff

prior to opening a day care or other home based business in the home.

(30) Foster parents shall transport children in accordance with state public safety laws.

#### **I. Records Documentation Required for Child Placing Agencies.**

(1) All child placing agencies in the State shall keep records regarding each of their foster children containing the following information:

(a) The child's name;

(b) The child's birth date;

(c) The date of his admission and discharge from each foster care placement;

(d) Name, address and telephone number of relatives;

(e) Place and hours of employment of child's relatives; and

(f) Name, address and telephone number of available physician.

(2) All child placing agencies in the State shall keep records regarding each of their foster homes and said records shall contain documentation of compliance with these regulations and SCDSS procedures related to foster home licensing.

#### **J. Adoption of Foster Children by Foster Parents.**

(1) Foster parents may apply to adopt a foster child.

(2) Foster families who have been approved for adoption will be given first consideration for the adoption of a foster child under the following conditions:

(a) The child has been in the same foster home for a consecutive six months period of time or more; and

(b) The child is legally free for adoption; and

(c) Placement for adoption with the foster family is deemed to be in the best interest of the child by SCDSS or the child placing agency.

#### **K. Initial Licensing, Renewal, Denial, Revocation, and Termination of License.**

(1) Foster family licenses shall be studied for renewal every two years and prior to the expiration of the last license.

(2) Renewal process requirements include documentation of annual fire inspection, additional training hours, background checks through CPS, SLED, and Sex Offender Registry, home visit, assessment of ongoing compliance with requirements and standards of care, and any additional requirements as SCDSS or the child placing agency staff may deem necessary.

(3) A license will not be issued or renewed if licensing requirements are not met, or standards of care have not been maintained as prescribed within these regulations or if, in the opinion of SCDSS, it would be detrimental for children to be placed in the home. Written notification of the denial, signed by the director of SCDSS or his/her designee will be mailed via certified mail from SCDSS to the applicant(s) or license holder. The notification will inform the applicant(s) or license holder of any right to appeal this decision pursuant to established SCDSS procedure.

(4) A foster home license may be revoked by SCDSS if minimum licensing requirements or standards within these regulations are not met, or, if in the opinion of SCDSS or child placing agency staff, it would be detrimental for additional children to be placed in the home. Written notification of the revocation, signed by the director of SCDSS or his/her designee will be mailed via certified mail from SCDSS to the license holder. The notification will inform the license holder of any right to appeal this decision pursuant to established SCDSS procedure.

(5) A foster family license shall be terminated when:

(a) The time specified on the license has elapsed; or

(b) The foster family has moved to a new location without applying for a change in license; or

(c) The license has been revoked or renewal denied and the time frame for appeal has elapsed;  
or

(d) A foster family voluntarily returns the current license to SCDSS or the child placing agency for cancellation or otherwise informs SCDSS or the child placing agency that they no longer desire to be licensed.

#### **L. Kinship Foster Parents.**

(1) Per federal policy, relatives being licensed must be licensed in accordance with the same requirements as non-relative applicants. SCDSS may waive, on a case by case basis, for relatives or non-relatives, non-safety elements as SCDSS deems appropriate. Safety elements such as history of child abuse/neglect, state and/or federal criminal history checks must not be waived. SCDSS must note on the standard license if there was a waiver of non-safety element and identify the element being waived.

(2) Relatives are given preference in placement options provided such placement is in the best interest of the child(ren).

**M. Confidentiality.**

(1) No foster family shall directly or indirectly disclose any information regarding foster children, their biological families/relatives or other individuals who have had control of the foster children, other than to professionals treating, caring and providing services for the child or others as SCDSS or the licensed child placing agency deems appropriate.

(2) Information that is disclosed shall be limited to information that is necessary to provide for the child's needs and in their best interest.

**N. Prior Regulations Repealed.**

All regulations concerning foster family homes previously promulgated by the agency are hereby repealed, including: Regulations 114-550 (Vol. 27).

**O. Regulations Review.**

These regulations are to be evaluated at a minimum, every five (5) years from the date of initiation, to assess the need for revision.

HISTORY: Amended by State Register Volume 27, Issue No. 3, eff March 28, 2003.