

LOCAL DEPARTMENT APPROVED PROVIDER STANDARDS

Chapter 771

Local Department Approved Provider Standards

22 VAC 40-770-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Adoptive parent or parents" means a provider who gives parental care and establishes permanent family relationships for children in the provider's home for purposes of adoption.

"Adult" means any individual 18 years of age or over.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult.

"Adult day care provider" means a provider who gives personal supervision for up to three adults for part of a day. The provider promotes social, physical and emotional well-being through companionship, self-education, and satisfying leisure activities. Day care for more than three adults requires licensure by the State Department of Social Services.

"Adult exploitation" means the illegal use of an incapacitated adult or his resources for another's profit or advantage.

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“Adult foster care” means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult foster care provider" means a provider who gives room and board, supervision and special services in his own home for up to three adults who are unable to remain in their own home because of a physical or mental condition or an emotional or behavioral problem. Care provided for more than three adults requires licensure by the Virginia Department of Social Services.

“Adult neglect” means that an adult is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical or mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. Neglect includes self-neglect as well as neglect by others.

"Adult services" means services that are provided to adults 60 years of age and older and to adults 18 years of age and older who have a disability. Adult services include home-based services (companion, chore, and homemaker services), adult foster care, and adult day care.

"Assistant" means any individual who is responsible to assist a provider in caring for clients.

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“Central Registry” means a subset of the child abuse and neglect information system and is the name index with identifying information on individuals named as an abuser and/or neglector in founded child abuse and/or neglect complaints or reports not currently under administrative appeal, maintained by the Department.

“Child or children” means any natural person under 18 years of age.

“Chore provider” means a provider who performs non-routine, heavy home maintenance tasks for clients unable to perform such tasks for themselves.

“Client” means any adult or child who needs supervision and services and seeks assistance in meeting those needs from a local department of social services.

“Companion provider” means a provider who assists clients unable to care for themselves without assistance in activities such as light housekeeping, companionship, shopping, meal preparation, and activities of daily living.

“Corporal punishment” means any type of physical punishment inflicted in any manner upon the body of a child including but not limited to hand spanking, shaking a child, forcing a child to assume an uncomfortable position, or binding a child.

“Department” means the State Department of Social Services.

“Family day home” means pursuant to § 63.2-100 of the Code of Virginia, a child day program offered in the residence of the provider or the home of any of the children in care for one through twelve children under the age of thirteen, exclusive of the provider’s own children and any children who reside in the home, when at least one

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child receives care for compensation. Family day homes serving six through twelve children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered.

"Foster parent" means a provider who gives 24-hour substitute family care, room and board, and services for up to eight children committed or entrusted to local boards of social services or placed by agreement between a local board or public agency pursuant to § 63.2-900 et seq. of the Code of Virginia.

"Home-based services" means companion, chore, and homemaker services that allow individuals to attain or maintain self-care and are likely to prevent or reduce dependency.

"Homemaker" means a provider with homemaking skills acquired through training and experience who gives instruction in or, where appropriate, performs activities such as personal care, home management, household maintenance, child rearing and nutrition, consumer or hygiene education.

"Infant" means any child from birth up to two years of age.

"In-home child care provider" means a provider who is responsible for the supervision and care of children in the child's own home and all the children in care reside in the

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home. (The provider cannot own the home or have his name on the lease or rental agreement.)

"In-home provider" means an individual who provides care in the home of the client needing supervision and services. In-home providers include companion, chore, homemaker, and in-home child care providers.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local department approved provider" means a provider that is not subject to licensure and is approved by a local department of social services to provide services to Department of Social Services' clients.

"Out-of-home provider" means an individual who provides care in the individual's own home to clients who enter the home for purposes of receiving needed supervision and services. Out-of-home providers include adoptive parents before the final order of adoption is entered, adult day care providers, adult foster care providers, family day home providers, and foster parents.

"Parent or guardian for children" means the biological or adoptive parent or the legal guardian or guardians of a child.

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“Permanency provider” means adoptive parent(s) (until the final order of adoption is issued) and/or foster parent(s) that provide a home which improves the safety, permanency and well-being of the child in care.

"Responsible person" means the parent or guardian of a child or an individual designated by or for an adult client.

22 VAC 40-770-20. Local department approved providers.

A. This regulation applies to providers approved by a local department and does not apply to providers licensed by the Department.

B. This regulation is applicable to the following providers:

1. Out-of-home providers:

a. Adoptive parents (this regulation does not apply to adoptive parents after the final order of adoption is entered);

b. Adult day care providers;

c. Adult foster care providers;

d. Family day home providers; and

e. Foster parents.

2. In-home providers:

a. Chore providers;

b. Companion providers;

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c. In-home child care providers; and

d. Homemaker providers.

C. These standards and regulations are not applicable to individual providers who are either licensed by the Department or approved through an organization licensed by the Department. Examples of such providers include, but are not limited to, licensed and voluntarily registered family day homes, family day homes, licensed independent foster homes and foster and adoptive homes approved by child-placing agencies.

22 VAC 40-770-30. Adult Services.

A. Standards for providers and other persons.

1. Age.

a. All local department approved adult services homemaker services providers shall be at least 18 years of age.

b. All local department approved adult services chore and companion providers shall be at least 16 years of age. If the local department chooses to hire a chore or companion provider who is at least 16 years of age but less than 18 years of age, the local department must determine that the provider is competent and able to provide the service.

c. Any assistant to a local department approved provider for adult services shall be at least 16 years of age.

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2. Criminal record background checks and additional requirements.

a. The provider and any assistant, the spouse of the provider, or other adult household members who come in contact with adults in care shall identify any criminal convictions and consent to a criminal record search in a form similar to the sworn statement or affirmation in accordance with § 63.2-1720 of the Code of Virginia.

b. For adult services, convictions of crimes listed in § 63.2-1719 of the Code of Virginia shall prohibit a provider or, for adult foster care and adult day care, the assistant, spouse of the provider, or other adult household members who come in contact with adults in care to receive approval as a provider. In addition, if the provider or, for adult foster care and adult day care, the assistant, spouse of the provider, or other adult household members who come in contact with adults in care have been convicted of any other felony or misdemeanor that, in the judgment of the local department jeopardizes the safety or proper care of adults, the provider shall be prohibited from being approved as a provider of services to adults.

c. Exception. The provider and any assistant, spouse of the provider, or other adult household members who come in contact with adults in care and who have been convicted of a crime listed in § 63.2-1719 of the Code of Virginia may receive an allowable variance on this standard if it does not jeopardize the safety or proper care of the adult and the local department approves the exception.

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d. Fee. The local department shall receive from the provider a fee in the amount of the cost of the criminal record check plus a nominal processing fee for the criminal record background check(s).

3. Interview, references, and employment history.

a. The provider shall participate in interviews with the local department.

b. The provider shall provide at least two references from persons who have knowledge of the provider's ability, skill, or experience in the provision of services and who shall not be related to the provider.

c. The provider shall provide information on the provider's employment history.

d. The local department will use the interviews, references, and employment history to assess that the provider is:

(1) knowledgeable of and physically and mentally capable of providing the necessary care for adults;

(2) able to sustain positive and constructive relationships with adults in care, and to relate to adults with respect, courtesy, and understanding;

(3) capable of handling emergencies with dependability and good judgment; and

(4) able to communicate and follow instructions sufficiently to assure adequate care, safety and protection for adults.

e. For adult foster care and adult day care, at least one interview must occur in the home where the care is to be provided. All adult household members shall be

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interviewed to assure that they understand the demands and expectations of the care to be provided.

f. For homemaker providers, the local department will further use the interview, references, and employment history to assess that the provider has knowledge, skills, and ability, as appropriate, in:

(1) Home management and household maintenance;

(2) Personal care of the elderly or adults with a disability;

(3) Nutrition education and meal planning and preparation, including special diets; and

(4) Personal hygiene and consumer education.

g. For adult foster care providers, the local department will further use the interview, references, and employment history to assess that the provider has sufficient financial income or resources to meet the basic needs of his own family and has the knowledge, skills, and abilities to care for adults, including, but not limited to:

(1) Provision of a furnished room in the home that meets applicable zoning, building, and fire safety codes.

(2) Housekeeping services based on the needs of the adult in care.

(3) Nutritionally balanced meals and snacks, including extra portions and special diets as necessary.

(4) Provision of clean bed linens and towels at least once a week and as needed by the adult.

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(5) Assistance with personal hygiene including bathing, dressing, oral hygiene, hair grooming and shampooing, care of clothing, shaving, care of toenails and fingernails, arranging for haircuts as needed, care of needs associated with menstruation or occasional bladder or bowel incontinence.

(6) Provision of generic personal toiletries including soap and toilet paper.

(7) Assistance with the following: care of personal possessions; care of personal funds if requested by the adult and adult foster care home's policy permits it; use of telephone; arranging transportation; obtaining necessary personal items and clothing; making and keeping appointments; and correspondence.

(8) Securing health care and transportation when needed for medical treatment.

(9) Providing social and recreational activities as required by licensing regulations.

(10) General supervision for safety.

4. Training.

a. The local department shall provide some basic orientation to any approved provider.

b. The provider shall attend any orientation and training required by the local department.

5. Medical requirements.

a. The provider and, for out-of-home care, the assistant, the provider's spouse, and all other adult household members who come in contact with adults in care shall submit a

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statement from the local health department or licensed physician that he is believed to be free of tuberculosis in a communicable form.

b. The provider and assistant shall submit the results of a physical and mental health examination when requested by the local department.

6. Updated information. All local department approved providers must keep the local department informed of changes in the household that may affect approval of the provider.

7. The provider must have the capability to perform fully the requirements of the position, have the moral and business integrity and reliability to ensure good faith performance and who is determined by the local department to meet the requirements of the position.

8. Any provider who causes the local department to make an improper payment by withholding information or providing false information may be required to pay the amount of the improper payment.

B. Standards for care for adult services providers.

1. Nondiscrimination. The provider shall provide care which does not discriminate on the basis of race, ethnicity, sex, national origin, age, religion, or handicap.

2. Supervision.

a. The provider shall have a plan for seeking assistance from police, firefighters, and medical professionals in an emergency.

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b. A responsible adult shall always be available to substitute in case of an emergency.

c. If extended absence of the provider is required, the local department must approve any substitute arrangements the provider wishes to make. An extended absence shall be defined as greater than one day.

d. The provider shall ensure that adequate care and supervision is provided to adults in care and that the adult's health, safety, and well-being are protected.

3. Food. The following standards apply to adult day care and adult foster care providers:

a. Adults in care shall receive nutritionally balanced meals and snacks appropriate to the length of time in care each day and the daily nutritional needs of each adult.

b. Adults in care shall receive special diets if prescribed by a licensed physician or in accordance with religious or ethnic requirements, the adult's preferences, or other special needs.

c. Adequate drinking water shall be available at all times.

4. Transportation of adults.

a. If the provider transports adults in care, the provider shall have a valid driver's license and automobile liability insurance.

b. The vehicle used to transport adults shall have a valid license and inspection sticker.

c. Providers who transport adults must ensure that all passengers are using safety belts in accordance with requirements of Virginia law.

5. Medical care.

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a. The provider shall have the name, address, and telephone number of each adult's physician and responsible person easily accessible.

b. The provider must be able to meet the identified needs of the adult before accepting the adult for care and in order to continue to provide services to the adult.

c. The adult foster care and adult day care provider shall:

(1). Ensure that the adult receives prescription drugs only in accordance with an order signed by a licensed physician or authentic prescription label and, with the responsible person's written consent, as appropriate;

(2). Document all medications taken by adults in care, including over-the-counter medications;

(3). Ensure that the adult in care receives nonprescription drugs only with the adult's or responsible person's written consent, as required;

(4). Keep medications separate from food except those items that must be refrigerated;

(5). Report all major injuries and accidents to the adult's responsible person immediately; and

(6). Have authorization for emergency medical care for each adult in care.

(7). The provider shall have first aid supplies easily accessible in case of accidents.

d. Admission or retention of adults in an adult foster care home is prohibited when the adult has any of the following conditions or care needs:

(1). Ventilator dependency.

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- (2). Dermal ulcers stage III and IV except those stage III ulcers which are determined by an independent physician to be healing and care is provided by a licensed health care professional under a physician's treatment plan.
- (3). Intravenous therapy or injection directly into the vein except for intermittent intravenous therapy managed by a licensed health care professional.
- (4). Airborne infectious disease in a communicable state that requires isolation of the individual or requires special precautions by the caretaker to prevent transmission of the disease, including diseases such as tuberculosis and excluding infections such as the common cold.
- (5). Psychotropic medications without appropriate diagnosis and treatment plans.
- (6). Nasogastric tubes.
- (7). Gastric tubes except when the individual is capable of independently feeding himself or herself and caring for the tube.
- (8). Individuals presenting an imminent physical threat or danger to self or others.
- (9). Individuals requiring continuous licensed nursing care (seven days a week, twenty-four hours a day).
- (10). Individuals whose physician certifies that placement is no longer appropriate.
- (11). Individuals who require maximum physical assistance as documented by the Virginia Uniform Assessment Instrument and meet Medicaid nursing facility level of care criteria as defined in the State Plan for Medical Assistance.

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(12). Individuals whose health care needs cannot be met in the specific adult foster care home as determined by the home.

7. Activities. The adult day care and adult foster care provider shall provide recreational and other planned activities appropriate to the needs, interests, and abilities of the adults in care.

8. Abuse, neglect, or exploitation reporting responsibilities of providers. All providers of adult services shall immediately report any suspected abuse, neglect, or exploitation of any adult in care to the local department or to the 24-hour toll-free hotline (hotline number: 888-83-ADULT). Providers covered by this regulation are mandatory reporters in accordance with § 63.2-1606 of the Code of Virginia. Failure to report could result in civil and/or criminal liability.

9. Clothing requirements. The adult foster care provider shall ensure that adults in care have adequate, properly fitting, and seasonal clothing and that all clothing is properly laundered or cleaned and altered or repaired as necessary.

C. Standards for the home of the adult foster care or adult day care provider.

1. Physical accommodations.

a. The home shall have appropriate space and furnishings for each adult receiving care in the home to include:

(1). Space to keep clothing and other personal belongings;

(2). Accessible and adequate basin and toilet facilities;

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(3). Comfortable sleeping or napping furnishings;

(4). For adults unable to use stairs unassisted, sleeping space on the first floor of the home;

(5). Adequate space for recreational activities; and

(6). Sufficient space and equipment for food preparation, service, and proper storage.

b. All rooms used by adults shall be heated in winter, dry, and well-ventilated.

c. All doors and windows used for ventilation shall be appropriately screened.

d. Rooms used by adults in care shall have adequate lighting for activities and the comfort of adults.

e. The provider and any adult in care shall have access to a working telephone in the home.

f. The home shall be in compliance with all local ordinances.

g. Additional standards for adult foster care:

(1). No more than two adults shall share a sleeping room unless they request and consent to sharing such a sleeping arrangement.

(2). There shall be space in the household for privacy outside of the sleeping rooms for the adult to entertain visitors and talk privately.

2. Home safety.

a. The home and grounds shall be free from litter and debris and present no hazard to the safety of the adults receiving care.

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b. The provider shall permit a fire inspection of the home by appropriate authorities if conditions indicate a need for approval and the local department requests it.

c. The provider shall have a written emergency plan that includes, but is not limited to, fire or natural disaster and rehearse the plan at least twice a year. The provider shall review the plan with each new adult placed in the home.

d. Attics or basements used by adults in care shall have two emergency exits. One of the emergency exits shall lead directly outside and may be a door or an escapable window.

e. Possession of any weapons, including firearms, in the home must be in compliance with federal, state, and local laws and ordinances. The provider shall store all weapons, firearms, and ammunition, in a locked cabinet with safety mechanisms activated. The key or combination to the cabinet shall not be accessible to the adult in care. Any glass cabinets used to store any weapons, including firearms, shall be shatter-proof.

f. The provider shall protect adults from household pets that may be a health or safety hazard. Household pets shall be inoculated as required by state or local ordinances. Documentation of inoculations shall be made available upon local department request.

g. The provider shall keep cleaning supplies and other toxic substances stored away from food and out of the reach of adults in care who are mentally incapacitated.

h. The provider shall provide and maintain at least one approved, properly installed, and operable battery-operated smoke detector in each sleeping area and on each additional

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floor. Existing installations that have been approved by the State or Local Fire Marshal are exempted from this requirement.

3. Sanitation.

a. The provider shall permit an inspection of the home's private water supply and sewage disposal system by the local health department if conditions indicate a need for approval and the local department requests it.

b. The home and grounds shall be free of garbage, debris, insects, and rodents that would present a hazard to the health of the adult in care.

4. Capacity.

a. The provider shall not exceed the maximum allowable capacity for the type of care provided and approved by the local department.

b. The adult day care provider shall not accept more than three adults in the home at any one time. A provider who has more than three adults receiving day care must be licensed by the Department.

c. The adult foster care provider shall not accept more than three adults for the purpose of receiving room, board, supervision, or special services, regardless of relationship of any adult to the provider. A provider that accepts more than three adults for these purposes must be licensed as an assisted living facility provider by the Department.

D. Record requirements for adult foster care and adult day care providers.

1. The provider shall maintain written legible information on each adult in care.

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2. Information on the adult in care shall include:

a. Identifying information on the adult in care;

b. Name, address, and home and work telephone numbers of responsible persons;

c. Name and telephone number of person to be called in an emergency when the responsible person cannot be reached;

d. Name, address, and home and work telephone numbers of persons authorized to pick up the adult in care;

e. Name of persons not authorized to call or visit the adult in care;

f. Date of admission and discharge of the adult in care;

g. Daily attendance record, where applicable. (Daily attendance records are required for adult day care);

h. Medical information pertinent to the health care of the adult in care;

i. Correspondence related to the adult in care as well as other written adult information provided by the local department; and

j. Placement agreement between the provider and the adult and his responsible person, where applicable.

3. Adult records are confidential and shall not be shared without the approval of the adult in care or responsible person.

4. The local department and its representatives shall have access to all records.

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E. Approval period. The approval period for a provider is 24 months when the provider meets the standards. In the case of adult day care and adult foster care, the home shall also meet the standards.

F. Allowable variance. The provider may receive an allowable variance on a standard if the variance does not jeopardize the safety and proper care of the adult or violate federal, state, or local law and the local department approves the request.

G. Emergency approval. Emergency approval of a provider may be granted under the following conditions:

1. The court orders emergency placement; or

2. The adult or his responsible person requests placement or service in an emergency.;
and

3. Emergency approval shall not exceed 30 days.

H. Provider monitoring.

1. For adult day care or adult foster care providers, the local department representative shall visit the home of the provider as often as necessary, but at least semi-annually to monitor the performance of the provider.

2. For home-based care providers, the local department representative will interview the provider face-to-face as often as necessary, but at least semi-annually to monitor the performance of the provider.

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3. Provider monitoring shall include interviews with adults receiving care from the provider.

4. The adult in care shall have access to all provider monitoring reports completed by the local department upon request.

I. Renewal process. The local department will re-approve the provider prior to the end of the approval period if the provider continues to meet the standards. In the case of adult day care or adult foster care provider, the home shall also continue to meet the standards.

J. Inability to meet standards.

1. If the provider cannot meet the standards described in this section, the local department shall grant provisional approval, suspend approval, or revoke approval, depending on the duration and nature of noncompliance.

2. The local department may grant provisional approval if non-compliance does not jeopardize the safety or proper care of the adults in care. Provisional approval shall not exceed three months.

3. The local department may suspend approval in non-compliance may jeopardize the safety and proper care of the adults in care. Suspension shall not exceed three months. During the suspension, the provider can give no care to adults referred by the local department.

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4. If the provider is found to be out of compliance with the standards set forth herein and cannot meet standards within three months and a variance is not granted, the approval shall be revoked.

K. Relocation of out-of-home provider. If the out-of-home provider moves, the local department will determine continued compliance with standards related to the home as soon as possible, but no later than 30 days after relocation to avoid disruption of services to the adult in care.

L. Right to appeal. The provider shall have the right to appeal the actions of the local department.

M. Rights of adults in care.

1. Adults in the care of local department approved providers shall have the rights and responsibilities specified in this section. The provisions of this section shall not be construed to restrict or abridge any right which any adult has under the law. The provider shall establish policies and procedures to ensure that adults in care are aware of the following rights:

a. to be fully informed, prior to the beginning of the provision of services, of his rights and of all rules and expectations governing his conduct and responsibilities; the adult, and, if appropriate, his responsible persons, shall acknowledge, in writing, receipt of this information, which shall be filed in his record;

b. to be fully informed, prior to the beginning of the provision of services, of services

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available and of any related charges, if any; this shall be reflected by the adult's written acknowledgment of having been so informed, which shall be filed in his record;

c. unless a conservator of such person has been appointed, the adult is free to manage his personal finances and funds; is entitled access to personal account statements reflecting financial transactions made; and, when receiving adult foster care, is given at least a quarterly accounting of financial transactions made on his behalf;

d. to be afforded confidential treatment of his personal affairs and records and may approve or refuse their release to any individual outside the home except as otherwise provided in law and except in case of his transfer to another setting;

e. when receiving adult foster care or adult day care, is transferred or discharged only when provided with a statement of reasons, or for nonpayment for his stay, and is given advance notice of at least 30 days; upon notice of discharge or upon giving reasonable advance notice of his desire to move, the adult shall be afforded reasonable assistance to ensure an orderly transfer or discharge; such actions shall be documented in his record;

f. in the event a medical condition should arise while he is under the care of the provider, the adult is afforded the opportunity to participate in the planning of his program or care and medical treatment and the right to refuse treatment;

g. when receiving care from an adult foster care or adult day care provider, the adult is not required to perform services for the home except as voluntarily contracted pursuant

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to an agreement for services which states the terms of consideration or remuneration and is documented in writing and retained in his record;

h. to be free to select health care services from reasonably available resources;

i. to be free from mental, emotional, physical, sexual, and financial abuse or exploitation; is free from forced isolation, threats, or other degrading or demeaning acts against him; and, when receiving care from an adult foster care or adult day care provider, his known needs are not neglected or ignored by the provider;

j. to be treated with courtesy, respect, and consideration as a person of worth, sensitivity, and dignity;

k. to be free to voice grievances and recommend changes in policies and services, free of coercion, discrimination, threats, or reprisal;

l. when receiving care from an out-of-home local department approved provider, is permitted to retain and use his personal clothing and possessions as space permits unless to do so would infringe upon rights of other adults;

m. to be encouraged to function at his highest mental, emotional, physical, and social potential;

n. to receive and send uncensored, unopened mail.

o. to refuse medication unless there has been a court finding of incompetence.

p. to choose which services are included in the service agreement and to receive all physician-prescribed treatments. Adults also have the right to refuse services, if doing

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so does not endanger the health or safety of other adults.

q. to be free of physical, mechanical or chemical restraint except in the following situations and with appropriate safeguards, including training for the provider on the use of restraints:

(1). As necessary to respond to unmanageable behavior in an emergency situation that threatens the immediate safety of the adult or others; and

(2). As medically necessary, as authorized in writing by a physician, to provide physical support to a weakened adult;

r. to be free of prescription drugs except where medically necessary, specifically prescribed, and supervised by the attending physician;

s. to be accorded respect for ordinary privacy in every aspect of daily living, including but not limited to the following:

(1). In the care of his personal needs except as assistance may be needed;

(2). In any medical examination or health-related consultations the adult may have at the home;

(3). In communications, in writing or by telephone;

(4). During visitations with other persons;

(5). When receiving care from an out-of-home provider, in the adult's room or portion thereof; adults shall be permitted to have guests or other adults in their rooms unless to do so would infringe upon the rights of other adults; staff may not enter a adult's room

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without making their presence known except in an emergency or in accordance with safety oversight requirements included in regulations of the State Board of Social Services; and

(6). When receiving care from an out-of-home provider, in visits with his spouse; if both are adults of the home they are permitted, but not required, to share a room unless otherwise provided in the adult's agreements; and

t. Is permitted to meet with and participate in activities of social, faith-based, and community groups at his discretion unless medically contraindicated as documented by his physician in his medical record.

2. If the adult is unable to fully understand and exercise the rights and responsibilities contained in this section, the local department shall require that a responsible person, of the adult's choice when possible, designated in writing in the adult's record, be made aware of each item in this section and the decisions which affect the adult or relate to specific items in this section; an adult shall be assumed capable of understanding and exercising these rights unless a physician determines otherwise and documents the reasons for such determination in the adult's record.

3. The out-of-home provider shall make available in an easily accessible place a copy of these rights and responsibilities and shall include in them the name and telephone number of the Adult Protective Services Hotline of the Department of Social Services as well as the toll-free telephone number for the Virginia Long-Term Care Ombudsman

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Program and any sub-state ombudsman program serving the area.

4. The out-of-home provider shall make its policies and procedures for implementing this section available and accessible to adults, relatives, agencies, and the general public.

5. Each out-of-home provider shall provide appropriate staff training to implement each adult's rights included in this section.

6. Adults in care have the right to be fully informed in advance about recommended care and treatment and of any recommended changes in that care or treatment.

7. Adults in care have the right to freedom from searches of personal belongings without the adult or responsible person's permission, unless the care provider has reason to suspect that the adult possesses items which are illegal or prohibited in the out-of-home provider setting and the adult is present during the search.

8. When receiving care from an out-of-home provider, adults have the right to be notified before the adult's room or roommate is changed.

9. When receiving care from an out-of-home provider, adults have the right to communicate privately and without restriction with any other adult who does not object to the communications.

10. Adults have the right to file an appeal if it is believed that an adult right has been violated, and adults have the right to advocacy assistance throughout the appeal process.

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N. Responsibilities of adults in adult foster care or adult day care.

1. The adult in care must follow the house rules of the provider unless these rules are in violation of adults' rights.
2. Adults in care must give a two-week written notice of intent to leave the placement.
3. Adults in care must notify providers if there are changes in the adult's health status.

22 VAC 40-770-40. Child Care.

A. Standards for Providers and Other Persons

1. Age

- a. All local department approved providers shall be at least 18 years of age.
- b. Any assistant to a local department approved provider shall be at least 16 years of age.

2. Criminal record background checks and additional requirements.

- a. The provider, and, for out-of-home care, any employee, prospective employee, volunteers, agents involved in the day-to-day operation, all agents who are alone with, in control of, or supervising one or more children, any other adult living in a home where local department approved provider services are rendered, and the assistant, spouse of the provider, and adult household members who come in contact with children shall identify any criminal convictions and be willing to consent to and receive background checks pursuant to §§ 63.2-1719-1720 of the Code of Virginia .

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b. The provider, and, for out-of-home care, any employee, prospective employee, volunteers, agents involved in the day-to-day operation of an out-of-home service, all agents who are alone with, in control of, or supervising one or more children, any other adult living in a home where local department approved provider services are rendered, and the assistant, spouse of the provider, and adult household members who come in contact with children shall not have an offense pursuant to § 63.2-1719 of the Code of Virginia.

c. Additional Requirements

(1). The family day home shall not be permitted to enter into a contract with a local department for child care services when an applicant; any employee; a prospective employee; a volunteer; an agent involved in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or any other adult living in a family day home has any offense as defined in § 63.2-1719 of the Code of Virginia

(2). It shall be unlawful for any person to operate a family day home if he, or if he knows that any other person who resides in the home, has been convicted of a felony or is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth pursuant to § 63.2-1727 of the Code of Virginia.

(3). Family day home providers shall meet health and safety standards, as required by policy developed by the Department's Child Care and Development Division.

3. Child Abuse or Neglect Record.

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a. The provider, and for out-of home care, assistant, spouse of the provider and adult household members who come in contact with children, any employee, prospective employee, volunteers, agents involved in the day-to-day operation of an out-of-home service, all agents who are alone with, in control of, or supervising one or more child and any other adult living in the home shall consent to a search of the Child Protective Service Central Registry if care is provided for the children.

b. The provider, the assistant, spouse of the provider, or adult household members who come in contact with children, any employee, prospective employee, volunteers, agents involved in the day-to-day operation of an out-of-home service, all agents who are alone with, in control of, or supervising one or more children, and any other adult living in a home shall not have a founded child abuse or neglect record in the Child Protective Service Central Registry if care is provided for children.

4. Interview, References, and Employment History

a. The provider shall participate in interviews with the local department.

b. The provider shall provide at least two references from persons who have knowledge of the provider's ability, skill, or experience in the provision of services and who shall not be related to the provider. The local department may request more than two references.

c. The provider shall provide information on the provider's employment history.

d. The local department will use the interviews, references, and employment history to assess that the provider is:

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(1). knowledgeable in and physically and mentally capable of providing the necessary care for children;

(2). able to sustain positive and constructive relationships with children in care, and to relate to children with respect, courtesy and understanding;

(3). capable of handling emergencies with dependability and good judgment; and

(4). able to communicate and follow instructions sufficiently to assure adequate care, safety and protection for children.

e. For out-of-home care, at least one interview must occur in the home where the care is to be given. All adult household members shall be interviewed to assure that they understand the demands and expectations of the care to be given.

5. Training (all providers). The provider shall attend any orientation and training required by the Child Care and Development Division.

6. Medical requirements (all providers).

a. Tuberculosis screenings. The provider and, for out-of-home care, the assistant, and all other adult household members who come in contact with children shall submit a statement from the local health department or licensed physician that he is believed to be free of tuberculosis in a communicable form.

b. Other medical examinations. The provider and assistant shall submit the results of a physical and mental health examination when requested by the local department.

c. The local department shall obtain medical statements from a licensed physician or

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local health department for children placed with providers through the local department.

7. Updated information. All local department approved providers must keep the local department informed of changes in the household that may affect approval of the provider.

B. Standards for care.

1. Nondiscrimination. The provider shall provide care which does not discriminate on the basis of race, color, sex, national origin, age, religion, or handicap.

2. Supervision.

a. The provider shall have a plan for seeking assistance from police, firefighters, and medical professionals in an emergency.

b. A responsible adult shall always be available to substitute in case of an emergency.

c. If extended absence of the provider is required, the local department must approve any substitute arrangements the provider wishes to make. An extended absence shall be defined as greater than one day.

d. Children shall be supervised by an adult at all times. An assistant under age 18 cannot be left in charge.

e. The provider shall ensure that adequate care and supervision is provided to children and the child's health, safety, and well-being are protected.

3. Food.

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a. Children shall receive meals and snacks appropriate to the number of hours in care and the daily nutritional needs of each child.

b. Children shall receive special diets if prescribed by a licensed physician or in accordance with religious or ethnic requirements or other special needs.

c. Adequate drinking water shall be available at all times.

d. Children shall receive nutritionally balanced meals appropriate for the length of time in care each day.

4. Transportation of children.

a. If the provider transports children, the provider shall have a valid driver's license and automobile liability insurance.

b. The vehicle used to transport children shall have a valid license and inspection sticker.

c. Providers who transport children must use child restraint devices in accordance with requirements of Virginia law.

d. Providers who transport children must ensure that all passengers are using safety belts in accordance with requirements of Virginia law.

5. Medical care

a. The provider shall have the name, address, and telephone number of each child's physician and contact person designated by the parent or guardian easily accessible.

b. The provider shall have first aid supplies easily accessible in case of accidents.

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c. The out-of-home provider shall keep medicines and drugs separate from food except those items that must be refrigerated.

d. The family and in-home day care shall:

(1). Give prescription drugs only in accordance with an order signed by a licensed physician or authentic prescription label and with a parent or guardian's written consent, as appropriate;

(2). The provider shall document all medications administered to children, including over-the-counter medications.

(3). Give nonprescription drugs, including but not limited to vitamins and aspirin, only with the parent or guardian's written consent;

(4). Report all major injuries and accidents and all head injuries to the child's parent or guardian; and

(5). Have authorization for emergency medical care for each child.

e. The family day home provider:

(1). May refuse to accept a sick child into the home;

(2). Shall isolate a child who becomes ill during the day and notify the parent or guardian immediately in order that the child may be removed;

(3). Shall identify or label all prescription and nonprescription drugs with each child's name and return all drugs to the parent or guardian when no longer needed; and

(4). Shall keep all prescription and nonprescription drugs out of the reach of children.

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6. Discipline of children.

a. The provider shall establish rules that encourage desired behavior and discourage undesired behavior in cooperation with the parent or guardian of children in care.

b. The provider shall not use corporal punishment.

c. The provider shall not humiliate or frighten the child in disciplining the child.

d. The provider shall not withhold food, force naps, or punish toileting accidents in disciplining the child.

7. Activities.

a. The provider shall:

(1). Provide adequate space and structured activities appropriate to the children's ages, interests and abilities, as well as unstructured experiences in family living;

(2). Provide opportunities for vigorous outdoor play daily, depending on the weather and the age of the child, as well as for participation in quiet activities; and

(3) Limit the types of television, video games, music and computer programs and sites viewed and listened to by children and not use television, video games or computers as a substitute for planned activities.

8. Abuse, Neglect, or Exploitation Reporting Responsibilities of Providers. The provider shall immediately report any suspected abuse, neglect, or exploitation of any child in care to the local department or to the 24-hour toll-free hotline (hotline number: 800-552-7096). Most providers covered by this regulation are mandatory reporters in accordance

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with § 63.2-1509 of the Code of Virginia.

C. Standards for the home of the out-of-home provider.

1. Physical accommodations.

a. The home shall have sufficient appropriate space and furnishings for each child receiving care in the home to include:

(1). Space to keep clothing and other personal belongings;

(2). Accessible basin and toilet facilities;

(3). Comfortable sleeping or napping furnishings;

(4). Space for recreational activities; and

(5). Sufficient space and equipment for food preparation, service, and proper storage.

b. All rooms used by children shall be heated in winter, dry, and well ventilated.

c. All doors and windows used for ventilation shall be appropriately screened.

d. Rooms used by children shall have adequate lighting for activities and the comfort of children.

e. The provider and any assistant shall have access to a working telephone in the home.

f. The home shall be in compliance with all local ordinances.

2. Home safety.

a. The home and grounds shall be free from litter and debris and present no hazard to the safety of the children receiving care.

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- b. The home and grounds shall be free of safety hazards. The provider shall permit a fire inspection of the home by appropriate authorities if conditions indicate a need for approval and the local department requests it.
- c. The provider shall have a written emergency plan that includes, but is not limited to, fire or natural disaster and rehearse the plan at least twice a year. The provider shall review the plan with each new child, other than an infant, placed in the home.
- d. Attics or basements used by children shall have two emergency exits. One of the emergency exits shall lead directly outside, and may be a door or an escapable window.
- e. Possession of any weapons, including firearms, in the home must be in compliance with federal and state laws and local ordinances. The provider shall store any firearms and ammunition and other weapons in a locked cabinet with safety mechanisms activated. The key or combination to the cabinet shall be maintained out of the reach of the children in care. The cabinet shall not be accessible to the child in care. Any glass cabinets used to store any weapons, including firearms, shall be shatter-proof.
- f. The provider shall protect children from household pets that may be a health or safety hazard. Household pets shall be inoculated as required by state or local ordinances and documentation of inoculations made available if the local department requests.
- g. The provider shall keep cleaning supplies and other toxic substances stored away from food and out of the reach of children.

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h. The out-of-home provider shall provide and maintain at least one approved, properly installed, and operable battery-operated smoke detector as a minimum in each sleeping area and on each additional floor. Existing installations that have been approved by the State or Local Fire Marshal are exempted from this requirement.

3. Sanitation.

a. The provider shall permit an inspection of the home's private water supply and sewage disposal system by the local health department if conditions indicate a need for approval and the local department requests it.

b. The home and grounds shall be free of garbage, insects, and rodents that would present a hazard to the health of the children.

4. Capacity.

a. The provider shall not exceed the maximum allowable capacity for the type of care given and as approved by the local department.

b. The maximum number of children at any one time shall not exceed five as long as there are no more than four children under the age of two in care, including the provider's own children and any children who reside in the home pursuant to § 63.2-100 of the Code of Virginia.

c. Any child with a handicap which requires extra attention of the provider counts as two children.

d. More than five children may be enrolled part time as long as no more than five

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children are present at any given time and there are no more than four children under the age of two in care, including the provider's own children and any children who reside in the home.

e. The ratio of children to adults shall not be exceeded and shall be based on the following:

(1). There shall be one adult to four infants.

(2). There shall be one adult to five children two years old and older.

D. Children's Record Requirements.

1. The provider shall maintain written legible information on each child in care.

2. Children's information shall include:

a. Identifying information on the child(ren);

b.. Name, address, and home and work telephone numbers of responsible persons;

c. Name and telephone number of person to be called in an emergency when the responsible person cannot be reached;

d. Name, address, and home and work telephone numbers of persons authorized to pick up the child in care;

e. Name of persons not authorized to call or visit the child;

f. Date of admission and withdrawal of the child;

g. Daily attendance record, where applicable;

h. Medical information pertinent to the health care of the child;

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i. Correspondence related to the child as well as other written child information provided by the local department;

j. Placement agreement between the provider and parent or guardian where applicable;
and

k. For family day homes, information shall also include authorization for each child to participate in specific classes, clubs, or other activities. The provider shall obtain individual authorization for each child for every field trip or out-of-town trip.

3. Children's records are confidential and cannot be shared without the approval of the parent or guardian. The local department and its representatives shall have access to all records.

E. Approval period. The approval period for a provider is 24 months when the provider and, for out-of-home care, the home meets the standards.

F. Allowable variance. The provider may receive an allowable variance on a standard if the variance does not jeopardize the safety and proper care of the children or violate federal, state, or local law.

G. Provider monitoring.

1. For out-of-home providers who are used by the local department, the local department representative will visit the home of the provider as often as necessary but at least semi-annually to monitor the performance of the provider.

2. The representative of the Department of Social Services shall have access to the

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home and the children in care at any time there are children in care.

3. Parents or guardians shall have access to the home and their children at any time their children are in care.

H. Renewal process. The local department will re-approve the provider prior to the end of the approval period if the provider continues to meet the standards. In the case of an out-of-home provider, the home shall also continue to meet the standards.

I. Inability to meet standards. If the provider cannot meet the standards described in this section, the local department will grant provisional approval, suspend approval, or revoke approval, depending on the duration and nature of noncompliance.

J. Relocation of out-of-home provider. If the out-of-home provider moves, the local department will determine continued compliance with standards related to the home.

K. Right to grieve. In accordance with procedures established by the Department, the provider shall have the right to grieve the actions of the local department to the Director of the local department.

22 VAC 40-770-50. Permanency Providers: Adoption

A. The standards included in this regulation apply to adoptive parents until the final order of adoption is issued.

B. Standards for Providers and Other Persons.

1. Age. All adoptive parents shall be at least 18 years of age.

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2. Criminal record background checks and additional requirements.

a. Adoptive parent applicants and any other adult household members shall complete a criminal background check pursuant to § 63.2-1721 et seq. of the Code of Virginia.

b. Convictions of crimes listed in § 63.2-1719 of the Code of Virginia will preclude approval of applications to become adoptive parent(s).

3. Child abuse or neglect record. Adoptive parent applicants, and including any other adult household members, shall consent to a search of the Child Protective Service Central Registry. The adoptive provider and, all adult household members who come in contact with children shall not have a founded child abuse or neglect record in the Child Protective Service Central Registry.

4. Interview, References, and Employment History.

a. The provider shall participate in interviews with the local department.

b. The provider shall provide at least two references from persons who have knowledge of the provider's ability, skill, or experience in the provision of services and who shall not be related to the provider. The local department may request more than two references.

c. The provider shall provide information on the provider's employment history.

d. The local department will use the interviews, references, and employment history to assess that the:

(1). provider is knowledgeable in and physically and mentally capable of providing the necessary care for children;

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(2). provider is able to sustain positive and constructive relationships with children in care, and to relate to children with respect, courtesy and understanding;

(3). provider is capable of handling emergencies with dependability and good judgment;
and

(4). provider is able to communicate and follow instructions sufficiently to assure adequate care, safety and protection for children;

(5). provider demonstrates a capacity to love and nurture a child born to someone else;

(6). provider can accept the child for his own sake without expecting him to resolve family problems or fulfill family ambitions; and

(7). married adoptive parents show marital stability and mutual satisfaction with each other.

e. The local department shall conduct a home study in a format prescribed by the Department.

f. Providers shall disclose the following financial information:

(1). income from all sources;

(2). savings and investments;

(3). property; and

(4). debts.

g. At least one interview must occur in the home where the care is to be given. All adult household members shall be interviewed to assure that they understand the demands

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and expectations of the care to be given.

5. Training. The provider shall attend any orientation and training required by the local department.

6. Medical Requirements.

a. Tuberculosis screenings. The provider and all other adult household members who come in contact with children shall submit a statement from the local health department or licensed physician that he is believed to be free of tuberculosis in a communicable form.

b. Other medical examinations. The provider shall submit the results of a physical and mental health examination when requested by the local department. For adoptive parents, the local department will require submission of the results of a physical examination performed by a licensed physician within the past 12 months.

c. The local department shall obtain medical statements from a licensed physician or local health department for children placed with providers through the local department.

7. Updated information. All local department approved providers must keep the local department informed of changes in the household that may affect approval of the provider.

C. Standards for Care.

1. Nondiscrimination. The provider shall provide care which does not discriminate on the basis of race, color, sex, national origin, age, religion, or handicap.

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2. Supervision.

a. The provider shall have a plan for seeking assistance from police, firefighters, and medical professionals in an emergency.

b. A responsible adult shall always be available to substitute in case of an emergency.

c. If absence of the provider is required, the local department must approve any substitute arrangements the provider wishes to make.

d. The provider shall ensure that adequate care and supervision is provided to children and the children's health, safety, and well-being are protected.

3. Food.

a. Children shall receive meals and snacks appropriate to the nutritional needs of each child.

b. Children shall receive special diets if prescribed by a licensed physician or in accordance with religious or ethnic requirements or other special needs.

c. Adequate drinking water shall be available at all times.

d. Children shall receive nutritionally balanced meals.

4. Transportation of Children.

a. If the provider or any other adult transports children, the provider and any other adult shall have a valid driver's license and automobile liability insurance.

b. The vehicle used to transport children shall have a valid license and inspection sticker.

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c. Providers and any other adults who transport children must use child restraint devices in accordance with requirements of Virginia law.

5. Medical Care.

a. The provider shall have the name, address, and telephone number of each child's physician easily accessible.

b. The provider shall have first aid supplies easily accessible in case of accidents.

c. The provider shall keep medicines and drugs separate from food except those items that must be refrigerated.

6. Discipline of Children.

a. The provider shall establish rules that encourage desired behavior and discourage undesired behavior.

b. The provider shall not use corporal punishment.

c. The provider shall not humiliate or frighten the child in disciplining the child.

d. The provider shall not withhold food, force naps, or punish toileting accidents in disciplining the child.

7. Abuse, neglect, or exploitation reporting responsibilities of providers. The provider shall immediately report any suspected abuse, neglect, or exploitation of the child in care to the local department or to the 24-hour toll-free hotline (hotline number: 800-552-7096).

D. Standards for the providers.

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1. Physical accommodations.

a. The home shall have sufficient appropriate space and furnishings for each child receiving care in the home including:

(1). Space to keep clothing and other personal belongings;

(2). Accessible basin and toilet facilities;

(3). Comfortable sleeping or napping furnishings;

(4). For children unable to use stairs unassisted, other than a child who can easily be carried, sleeping space on the first floor of the home;

(5). Space for recreational activities; and

(6). Sufficient space and equipment for food preparation, service, and proper storage.

b. All rooms used by children shall be heated in winter, dry, and well ventilated.

c. All doors and windows used for ventilation shall be appropriately screened.

d. Rooms used by children shall have adequate lighting for activities and the comfort of children.

e. The provider shall have access to a working telephone in the home.

f. The home shall be in compliance with all local ordinances.

2. Home safety.

a. The home and grounds shall be free from litter and debris and present no hazard to the safety of the children receiving care.

b. The home and grounds shall be free of safety hazards. The provider shall permit a

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fire inspection of the home by appropriate authorities if conditions indicate a need for approval and the local department requests it.

c. The provider shall have a written emergency plan that includes, but is not limited to, fire or natural disaster and rehearse the plan at least twice a year. The provider shall review the plan with each new child, other than an infant, placed in the home.

d. Attics or basements used by children shall have two emergency exits. One of the emergency exits shall lead directly outside, and may be a door or an escapable window.

e. Possession of any weapons, including firearms, in the home must be in compliance with federal and state laws and local ordinances. The provider shall store any firearms and ammunition and other weapons in a locked cabinet with safety mechanisms activated. The key or combination to the cabinet shall be maintained out of the reach of all children in the home. The cabinet shall not be accessible to the children in care. Any

glass cabinets used to store any weapons, including firearms, shall be shatter-proof.

f. The provider shall protect children from household pets that may be a health or safety hazard.

g. The provider shall keep cleaning supplies and other toxic substances stored away from food and out of the reach of children.

h. The provider shall provide and maintain at least one approved, properly installed, and operable battery-operated smoke detector as a minimum in each sleeping area and on

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each additional floor. Existing installations that have been approved by the State or Local Fire Marshal are exempted from this requirement.

3. Sanitation.

a. The provider shall permit an inspection of the home's private water supply and sewage disposal system by the local health department if conditions indicate a need for approval and the local department requests it.

b. The home and grounds shall be free of garbage, insects, and rodents that would present a hazard to the health of the child.

E. Child record requirements for the provider.

1. The provider shall maintain written legible information on each child in care.

2. Child information shall include:

a. Identifying information on the child;

b. Name of persons not authorized to call or visit the child;

c. Medical information pertinent to the health care of the child;

d. Correspondence related to the child as well as other written child information provided by the local department; and

e. Placement agreement between the provider and the local department.

3. Child records are confidential. The local department and its representatives shall have access to all records.

F. Approval period. When the provider does not have a placement, the approval period

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for is 24 months when the provider and the home meet the standards.

G. Allowable variance. Pursuant to the Department's policy, the provider may receive an allowable variance on a standard if the variance does not jeopardize the safety and proper care of the child or violate federal, state, or local law, except that a variance shall not be granted if the provider has been convicted of a crime listed in § 63.2-1719 of the Code of Virginia.

H. Renewal process. The local department will re-approve the provider prior to the end of the approval period if the provider and the home continue to meet the standards.

I. Inability to meet standards. If the provider cannot meet the standards described in this section, the local department will grant provisional approval, suspend approval, or revoke approval, depending on the duration and nature of noncompliance.

J. Relocation of provider. If the provider moves, the local department will determine continued compliance with standards related to the home.

K. Right to grieve and appeal. The provider, and applicant to become a provider, shall have the right to grieve the actions of the local department to the local board on issues related to the application of state policy. If the provider or applicant is not satisfied with the grievance review, the provider or applicant may appeal to the Commissioner or his designee. Decisions on the placement of a specific child with a provider is not subject to appeal to the Commissioner or his designee. A provider may grieve these decisions to the local board. The local board shall have the final authority to determine appropriate

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placement for children pursuant to § 16.1-278.2 of the Code of Virginia. However, decisions regarding final adoptive placements are made by the circuit court pursuant to Title 63.2, Chapter 12, of the Code of Virginia.

22 VAC 40-770-60. Permanency Providers: Foster Care.

A. Standards for Providers and Other Persons

1. Age.

a. All local department approved foster care providers shall be at least 18 years of age.

b. Any assistant to a local department approved provider shall be at least 16 years of age.

2. Criminal record background checks and additional requirements.

a. Foster parent applicants and any other adult household members shall complete a criminal background check pursuant to § 63.2-1721 et seq. of the Code of Virginia.

b. Convictions of crimes listed in § 63.2-1719 of the Code of Virginia will preclude approval of applications to become foster parent(s).

3. Child abuse or neglect record. Foster parent applicants, and including any other adult household members, shall consent to a search of the Child Protective Service Central Registry. The foster care provider and, all adult household members who come in contact with children shall not have a founded child abuse or neglect record in the Child Protective Service Central Registry.

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4. Interview, references, and employment history.

a. The provider shall participate in interviews with the local department.

b. The provider shall provide at least two references from persons who have knowledge of the provider's ability, skill, or experience in the provision of services and who shall not be related to the provider. The local department may request more than two references.

c. The provider shall provide information on the provider's employment history.

d. The local department will use the interviews, references, and employment history to assess that the:

(1). provider is knowledgeable in and physically and mentally capable of providing the necessary care for children;

(2). provider is able to sustain positive and constructive relationships with children in care, and to relate to children with respect, courtesy and understanding;

(3). provider is capable of handling emergencies with dependability and good judgment;

(4). provider is able to communicate and follow instructions sufficiently to assure adequate care, safety and protection for children;

e. The local department shall conduct a home study in a format prescribed by the Department.

f. At least one interview must occur in the home where the care is to be given. All adult household members shall be interviewed to assure that they understand the demands and expectations of the care to be given.

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g. The local department will further use the interview, references, and employment history to assess that the foster care provider has sufficient financial income or resources to meet the basic needs of the provider's own family.

5. Training. The foster care provider shall attend any orientation and training required by the local department.

6. Medical requirements.

a. Tuberculosis screenings. The foster care provider and all other adult household members who come in contact with children shall submit a statement from the local health department or licensed physician that he is believed to be free of tuberculosis in a communicable form.

b. Other medical examinations. The provider shall submit the results of a physical and mental health examination when requested by the local department.

c. The local department shall obtain medical statements from a licensed physician or local health department for children placed with providers through the local department.

7. Updated information. All local department approved providers must keep the local department informed of changes in the household that may affect approval of the provider.

B. Standards for care.

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1. Nondiscrimination. The provider shall provide care which does not discriminate on the basis of race, color, sex, national origin, age, religion, or handicap.

2. Supervision.

a. The provider shall have a plan for seeking assistance from police, firefighters, and medical professionals in an emergency.

b. A responsible adult shall always be available to substitute in case of an emergency.

c. If absence of the provider is required, the local department must approve any substitute arrangements the provider wishes to make.

d. The provider shall ensure that adequate care and supervision are provided to children and the children's health, safety, and well-being are protected.

3. Food.

a. Children shall receive meals and snacks appropriate to the daily nutritional needs of each child.

b. Children shall receive special diets if prescribed by a licensed physician or in accordance with religious or ethnic requirements or other special needs.

c. Adequate drinking water shall be available at all times.

d. Children shall receive nutritionally balanced meals.

4. Transportation of children.

a. If the provider or any other adult transports children, the provider and any other adult shall have a valid driver's license and automobile liability insurance.

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b. The vehicle used to transport children shall have a valid license and inspection sticker.

c. Providers and any other adults who transport children must use child restraint devices in accordance with requirements of Virginia law.

5. Medical care.

a. The provider shall have the name, address, and telephone number of each child's physician easily accessible.

b. The provider shall have first aid supplies easily accessible in case of accidents.

c. The provider shall keep medicines and drugs separate from food except those items that must be refrigerated.

6. Discipline of children.

a. The provider shall establish rules that encourage desired behavior and discourage undesired behavior in cooperation with the local department.

b. The provider shall not use corporal punishment.

c. The provider shall not humiliate or frighten the child in disciplining the child.

d. The provider shall not withhold food, force naps, or punish toileting accidents in disciplining the child.

7. Abuse, neglect, or exploitation reporting responsibilities of providers. The provider shall immediately report any suspected abuse, neglect, or exploitation of any child in care to the local department or to the 24-hour toll-free hotline (hotline number: 800-552-

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7096).

8. Clothing requirements.

a. Foster parents shall provide adequate and seasonal clothing appropriate for the age and size of each child.

b. The foster parent provider shall ensure that children have adequate and seasonal clothing and that all clothing is properly laundered or dry cleaned, and altered or repaired as needed.

C. Standards for the home of the provider.

1. Physical accommodations.

a. The home shall have sufficient appropriate space and furnishings for each child receiving care in the home including:

(1). Space to keep clothing and other personal belongings;

(2). Accessible basin and toilet facilities;

(3). Comfortable sleeping or napping furnishings;

(4). For children unable to use stairs unassisted, other than a child who can easily be carried, sleeping space on the first floor of the home;

(5). Space for recreational activities; and

(6). Sufficient space and equipment for food preparation, service, and proper storage.

b. All rooms used by children shall be heated in winter, dry, and well ventilated.

c. All doors and windows used for ventilation shall be appropriately screened.

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d. Rooms used by children shall have adequate lighting for activities and the comfort of children.

e. The provider shall have access to a working telephone in the home.

f. The home shall be in compliance with all local ordinances.

g. No more than four children shall occupy one bedroom.

h. There shall be at least 70 square feet of space in a room occupied by one child and at least 50 square feet of space for each child in a room shared by two or more.

i. Children of the opposite sex shall not share a bed or a bedroom.

j. Children over the age of five shall not share a bedroom with an adult.

2. Home safety.

a. The home and grounds shall be free from litter and debris and present no hazard to the safety of the children receiving care.

b. The home and grounds shall be free of safety hazards. The provider shall permit a fire inspection of the home by appropriate authorities if conditions indicate a need for approval and the local department requests it.

c. The provider shall have a written emergency plan that includes, but is not limited to, fire or natural disaster and rehearse the plan at least twice a year. The provider shall review the plan with each new child, other than an infant, placed in the home.

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d. Attics or basements used by children shall have two emergency exits. One of the emergency exits shall lead directly outside, and may be an escapable door or an escapable window.

e. Possession of any weapons, including firearms, in the home must be in compliance with federal and state laws and local ordinances. The provider shall store any firearms and ammunition and other weapons in a locked cabinet with safety mechanisms activated. The key or combination to the cabinet shall be maintained out of the reach of all children in the home. The cabinet shall not be accessible to the adult in care. Any glass cabinets used to store any weapons, including firearms, shall be shatter-proof.

f. The provider shall protect children from household pets that may be a health or safety hazard.

g. The provider shall keep cleaning supplies and other toxic substances stored away from food and out of the reach of children.

h. The provider shall provide and maintain at least one approved, properly installed, and operable battery-operated smoke detector as a minimum in each sleeping area and on each additional floor. Existing installations that have been approved by the State or Local Fire Marshal are exempted from this requirement.

3. Sanitation.

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a. The provider shall permit an inspection of the home's private water supply and sewage disposal system by the local health department if conditions indicate a need for approval and the local department requests it.

b. The home and grounds shall be free of garbage, insects, and rodents that would present a hazard to the health of the child.

4. Capacity.

a. The provider shall not exceed the maximum allowable capacity for the type of care given and as approved by the local department.

(1). The maximum number of children in a home with two foster parents is eight.

(2). The maximum number of children in a home with one foster parent is four.

(3). The foster parents' own children under age 14 count in determining the maximum number of children.

(4). An infant counts as two children.

(5). Any child with a handicap which requires extra attention of the provider counts as two children.

(6). The local department may grant an exception to the foster home's maximum capacity to avoid separating a sibling group.

b. The actual capacity of a particular home may be less than the above capacities if:

(1). The physical accommodations of the home are not adequate for the maximum number of children;

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(2). The capabilities and skills of the provider are not sufficient to manage the maximum number of children; or

(3). Other individuals in the home require special attention or services of the provider.

D. Child record requirements for the provider.

1. The provider shall maintain written legible information on each child in care.

2. Child information shall include:

a. Identifying information on the child;

b. Name, address, and home and work telephone numbers of responsible persons;

c. Name and telephone number of person to be called in an emergency when the responsible person cannot be reached;

d. Name, address, and home and work telephone numbers of persons authorized to pick up the child in care;

e. Name of persons not authorized to call or visit the child;

f. Date of admission and discharge of the child;

g. Medical information pertinent to the health care of the child;

h. Correspondence related to the child as well as other written child information provided by the local department;

i. Placement agreement between the provider and the local department.

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3. Child records are confidential and cannot be shared without the approval of the child and/or parent. The local department and its representatives shall have access to all records.

E. Approval period. The approval period for a provider is 24 months when the provider and the home meet the standards.

F. Allowable variance. The provider may receive an allowable variance on a standard if the variance does not jeopardize the safety and proper care of the child or violate federal, state, or local law, except that a variance shall not be granted if the provider has been convicted of a crime listed in § 63.2-1719 of the Code of Virginia.

G. Emergency approval. Emergency approval of a provider may be granted under the following conditions when the placement is in the home of the child's relative or friend:

1. The court orders emergency placement;
2. The child is placed under the 72-hour emergency removal authority; or
3. The parent requests placement or service in an emergency; and
4. Prior to placement of a child with an unapproved provider, a criminal background check and child abuse and neglect central registry search has been conducted on all adults in the home of where the child is to be placed pursuant to § 63.2-901.1 of the Code of Virginia. Crimes listed in § 63.2-1719 of the Code of Virginia will preclude placement of the child.

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H. Provider monitoring. The local department representative will visit the home of the provider as often as necessary but at least semi-annually to monitor the performance of the provider.

I. Renewal process. The local department will re-approve the provider prior to the end of the approval period if the provider and the home continue to meet the standards.

J. Inability to meet standards. If the provider cannot meet the standards described in this section, the local department will grant provisional approval, suspend approval, or revoke approval, depending on the duration and nature of noncompliance.

K. Relocation of the provider. If the provider moves, the local department will determine continued compliance with standards related to the home.

L. Right to grieve and appeal. The provider, and applicant to become a provider, shall have the right to grieve the actions of the local department to the local board on issues related to the application of state policy. If the provider or applicant is not satisfied with the grievance review, the provider or applicant may appeal to the Commissioner or his designee. Decisions on the placement of a specific child with a provider is not subject to appeal to the Commissioner or his designee. A provider may grieve these decisions to the local board. The local board shall have the final authority to determine appropriate placement for children pursuant to § 16.1-278.2 of the Code of Virginia.

M. These standards continue to apply for foster care providers who care for youth between the ages of 18 and 21.