

VOLUME 38, ISSUE 3

ISSUE DATE: FEBRUARY 6, 2006

**RULE ADOPTIONS**

**HUMAN SERVICES  
DIVISION OF YOUTH AND FAMILY SERVICES**

*38 N.J.R. 969(a)*

**Adopted Repeal and New Rules: N.J.A.C. 10:122C**

**Manual of Requirements for Resource Family Parents**

Proposed: August 1, 2005 at 37 N.J.R. 2807(a).

Adopted: December 19, 2005 by James M. Davy, Commissioner, Department of Human Services.

Filed: December 28, 2005 as R.2006 d.45, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: P.L. 2004 c. 130, N.J.S.A. 30:4C-4(h) and 30:4C-26a and 30:4C-27.3 et seq.

Effective Date: February 6, 2006.

Expiration Date: February 6, 2011.

**Summary** of Public Comments and Agency Responses:

Written comments on the proposal were received from 14 commenters:

Irene Marie Cheski, a prospective resource family parent;

Barbara Devenezia, a resource family parent;

Christine Dudas, a resource family parent;

Janet Farrand, President, Foster and Adoptive Family Services;

Susan and Felix Glennon, resource family parents;

Riki Jacobs, Executive Director and Axel Torres, Director of Public Policy and Legislative Affairs, Hyacinth AIDS Foundation, and Catherine Hanssens, Executive Director, the Center for HIV Law and Policy;

Tressa Mathes, a resource family parent;

Georgianne and George Merlo, previous foster parents;

Karen Ramseur, a nurse;

Mary W. Feith Stewart, MSW, LSW;

Cecilia Zalkind, Esq., Executive Director and Mary Coogan, Esq., Assistant Director, Association for Children of New Jersey;

Two anonymous resource family parents;

Two anonymous foster children; and

Yvonne Smith Segars, Public Defender, Office of Law Guardian, New Jersey Office of the Public Defender.

The comments received and the Department's responses are summarized below. Comments received from more than one commenter on the same rule are grouped together.

### **Foster and Adoptive Family Services**

In the comments from Foster and Adoptive Family Services (FAFS) representatives, FAFS thanked the Department for the opportunity to participate in the development of the proposed rules, and applauded the change in nomenclature from "foster children" to "children in placement." The commenters expressed concerns about several provisions in the new rules.

1. COMMENT: The commenters recommended clarifying the definition of "restrictive behavior management" at N.J.A.C. 10:122C-1.3(b) to permit restraining a child in order to prevent or stop a child from self-injury or the injury of others.

RESPONSE: The Department recognizes the commenters' concerns but declines to change the rules. Use of restrictive behavior management techniques without proper training could injure a child. Restrictive behavior management is different from rescue; a resource family parent may take appropriate action to rescue a child from imminent injury to self or others. However, a child whose behavioral problems require restrictive behavior management should be placed in a setting where restrictive behavior management techniques are authorized by rule and caregivers are trained in the safe use of those techniques.

2. COMMENT: The commenters objected to N.J.A.C. 10:122C-1.4(a), which sets new capacity limits on the number of children in a resource family home. Until there is a sufficient pool of resource family homes, FAFS recommended that capacity exceptions be granted to homes that have successfully demonstrated their ability to provide care to more than six children. The new limitations will lead to a major loss of experienced resource family parents, many of whom actively support prospective and new resource family parents.

Ms. Cheski, Ms. Stewart, Ms. Mathes and the anonymous resource family parents also expressed concerns about this rule. Ms. Cheski indicated that she grew up with nine siblings in a well-functioning family and would like to provide care for a large resource family. Ms. Stewart expressed concern that the new limitations discriminate against large families who wish to become resource families. Ms. Mathes and the anonymous resource family parents indicated that they would like to care for additional children but will not be permitted to do so under the new rules.

RESPONSE: The Department disagrees. The new rules already allow for exceptions to the capacity limits at N.J.A.C. 10:122C-1.4(b), which authorizes the Department to license a resource family home for more than the specified capacity limits if necessary to keep sibling groups intact or to serve the best interests of a specific child or children who are or may be placed in the home. As such, the rules provide for sufficient flexibility that may allow a specific home to serve specific additional children.

3. COMMENT: The commenters recommended extending the time frame for medical examinations for license renewal at N.J.A.C. 10:122C-2.3(c)2 and 5.2(b), which require medical references to be based on a physician's examination that occurred within the previous six months. The commenters recommended changing the time frame to permit examinations conducted within one year of the date of completion of the medical reference. Since most medical insurance plans provide for annual examinations, a six-month time frame could be problematic for resource families, especially considering that every member of the household must have a medical examination. Ms. Stewart also expressed concerns about the cost of medical examinations, and asked why the six-month time limit was selected.

RESPONSE: The Department agrees in part with the commenters' recommendations and has changed the rules on adoption at N.J.A.C. 10:122C-2.3(c)2 and 5.2(b)1 and (b)2ix to indicate that a medical reference for license renewal must be based on a physical examination within the previous 12 months. Once the resource family home is licensed, continued oversight by the Division or contract agency will enable the caseworker to be aware of any medical problems in the household that might place children at risk. However, prior to licensure, current information on the medical history of resource family members is necessary to determine whether a license can be issued. Accordingly, a medical examination for initial licensure will still be required within six months, as indicated in the change on adoption at N.J.A.C. 10:122C-5.2(a)1, in order to ensure that the medical information on individuals in a prospective resource family home is current.

4. COMMENT: The commenters expressed concern about N.J.A.C. 10:122C-3.2(d), which authorizes the Department, without prior notice, to inspect and examine a resource family home and inspect records. The commenters recommended that resource families, as residents of private homes, be given advance notice of inspections with the exception of a response to a specific complaint or concern. The rule sends a message to resource family parents that the Department is "trying to catch them doing something wrong." Attempting to conduct inspections without prior notice to resource families could result in unnecessary use of licensing staff time, if staff is sent to homes when no one is there to allow them entrance for inspection. Ms. Dudas expressed similar concerns.

RESPONSE: The Department recognizes the commenters' concerns but declines to change the rules. Authorization for inspection without prior notice is a standard provision in licensing statutes and rules, and is specifically stated in the Resource Family Parent Licensing Act (see N.J.S.A. 30:4C-27.6b(2)). In practice, most licensing inspections are scheduled by appointment with the resource family parent, so as to minimize inconvenience to the family and unnecessary travel time for staff. Nevertheless, inspection without prior notice is necessary in those situations where the ability to conduct the inspection would be compromised by prior notice.

5. COMMENT: The commenters expressed concerns about N.J.A.C. 10:122C-4.1(b)3, which requires alcoholic beverages to be inaccessible to all children under 10 years of age and to children known to be at risk of substance abuse. The commenters agreed that alcoholic beverages should be inaccessible to children known to be at risk of substance abuse, but they recommended deletion of the requirement regarding children under 10. They considered it unreasonable to prohibit a resource family parent from keeping beer and wine in the refrigerator, or to require alcoholic beverages to be stored under lock and key. Ms. Devenezia and the anonymous resource family parents expressed similar concerns.

RESPONSE: The Department agrees in part with the commenters' recommendations. While the Department recognizes the inconvenience to resource family parents, it must specify provisions to ensure the safety of individual children whose age, history or disability places them at risk of accidental ingestion or abuse of alcohol. Accordingly, the Department has changed the rule on adoption at N.J.A.C. 10:122C-4.1(b)3 to require alcoholic beverages to be inaccessible to children as necessary to ensure the safety of a specific child or children in placement.

6. COMMENT: The commenters expressed concerns about N.J.A.C. 10:122C-4.2(a)3, which prohibits the use of an unfinished attic or basement as bedroom space for any household member, and N.J.A.C. 10:122C-4.2(d)3, which prohibits a room used as a bedroom by anyone in the resource family from being used for any other purpose. The commenters recommended that resource families be required to adhere to all applicable local ordinances regarding the use of bedroom space for all household members other than children. An adult household member should be permitted to sleep in a basement or attic or in a room used for another purpose.

RESPONSE: The Department recognizes the commenters' concerns and has changed the rule on adoption at N.J.A.C. 10:122C-4.2(a)3 to clarify that the term "unfinished" applies to both an attic and a basement. A household member may be allowed to sleep in a finished attic or basement if the room complies with the Uniform Construction Code (UCC), as determined by the local construction official. For example, the UCC requires bedrooms to have sufficient means of egress to permit the occupants to escape in a fire or other emergency (see N.J.A.C. 5:23-6.27). Most attics and basements lack the proper egress, and may also expose occupants to other hazards such as loose insulation or unprotected electrical wiring.

Use of a family living area for sleeping purposes would restrict occupants' privacy and deprive children of access to the living area. It should be noted, however, that the provision at N.J.A.C. 10:122C-4.2(d)3 prohibiting a bedroom from being used for another purpose is a level II requirement, which may therefore be waived for a home providing relative care, subject to the conditions specified at N.J.A.C. 10:122C-2.2(b).

7. COMMENT: The commenters recommended that the in-service training requirement at N.J.A.C. 10:122C-5.6(b) be reduced from a level I to a level II requirement. Due to the amount of training required and the lack of training opportunities currently available, it may not be possible for a resource family parent to accumulate the in-service training hours necessary.

RESPONSE: The rule in question is a level II requirement, not a level I requirement. The only training level I requirement is pre-service training at N.J.A.C. 10:122C-5.6(a).

8. COMMENT: The commenters raised concerns about N.J.A.C. 10:122C-7.2(a)3, which requires a smoke-free environment in all indoor areas of the home. The commenters recommended that resource families be allowed to permit smoking in a self-contained room that does not ventilate to other areas of the home, except in homes serving children

with asthma or other respiratory problems. Ms. Devenezia expressed concern that the new rule would discourage potential new resource family parents.

RESPONSE: The Department recognizes the commenters' concerns but declines to change the rules. The rule is intended not only to reduce children's exposure to secondhand smoke, but to reduce their exposure to smoking by adult role models. While the Department recognizes that exposure to secondhand smoke is especially hazardous for children with respiratory problems, exposure to tobacco use is an unacceptable health risk for all children.

### **Association for Children of New Jersey**

The representatives from the Association for Children of New Jersey (ACNJ) expressed support for the Department's efforts to ensure the safety of homes providing relative care, to allow for flexibility in compliance by differentiating between level I and level II requirements and to allow waivers of level II requirements on a case-by-case basis for homes providing relative care. The commenters raised questions about several issues.

9. COMMENT: The commenters raised a question about N.J.A.C. 10:122C-1.4(b), which authorizes the Department to license a resource family home for more than the specified capacity limits if necessary to keep sibling groups intact or to serve the best interests of the children. The commenters asked whether siblings will be separated while awaiting the approval of such a home.

RESPONSE: In keeping with the Department's Child Welfare Reform Plan, *A New Beginning*, the Department is committed to the goal of placing siblings together whenever possible. The rule in question is intended to promote this goal. If an alternative placement for siblings should be necessary while awaiting approval of a resource family home, the Department will make every effort to keep siblings together during the waiting period.

10. COMMENT: The commenters requested that an adequate level of funding be provided to assist resource family parents with minor home repairs needed to become licensed, to renew a license, or to meet conditions of a waiver.

RESPONSE: In August 2005, the Department announced the availability of one million dollars annually for the next five years to enable resource family parents to repair or upgrade their homes. Current and prospective resource family parents may apply for funds to meet or maintain compliance with licensing standards, to expand the number of children they can care for, or to enable them to care for children with disabilities. The Resource Family Home Rehabilitation Program is funded by the Department of Community Affairs and is open to homeowners and renters who meet specific eligibility criteria.

11. COMMENT: The commenters noted that some prospective resource family parents may not be interested in adoption, only in foster care. The commenters requested that the Department continue to allow applicants to determine what type of care they wish to provide, and not require applicants to commit to adoption at the initial phase of licensing. Approval of a resource family home should not be denied if the prospective resource family parent chooses to provide foster care only.

RESPONSE: In keeping with *A New Beginning*, the Department is committed to the goal of increasing the pool of resource family parents. Current and prospective resource family parents may choose the type of care they wish to provide. While it is hoped that many resource family parents will choose to adopt the children in their care, those resource family parents who wish to provide foster care only will not be denied licensure for that reason alone.

### **Mary W. Feith Stewart, MSW, LSW**

Mary W. Feith Stewart, MSW, LSW, submitted comments about both the Resource Family Parent Licensing Act, N.J.S.A. 30:4C-27.3 et seq., and the new rules. The Department is not authorized to change the statute or to respond to concerns about statutory requirements; such concerns may be addressed to the commenter's legislative representatives. The commenter raised concerns and questions about several provisions in the new rules.

12. COMMENT: The commenter raised concerns about the definition of the term "level II requirement" at N.J.A.C. 10:122C-1.3(b), which indicates that all requirements other than level I requirements are level II requirements. The commenter expressed concern that the interpretation of level II requirements by the inspector or supervisor may be biased or arbitrary.

RESPONSE: The Department recognizes the commenters' concerns but declines to change the rules. The Office of Licensing makes every effort to train its staff in the appropriate interpretation of licensing rules so as to eliminate biased

or arbitrary interpretations. All staff are required to complete a licensing curriculum developed in consultation with the National Association for Regulatory Administration, the country's foremost professional association for human care licensing. The curriculum addresses the history and phases of licensing, ethics in the licensing process, and the balanced use of authority.

13. COMMENT: The commenter expressed concern about the definition of the term "substantial compliance" at N.J.A.C. 10:122C-1.3(b). The commenter asked whether substantial compliance is measured by the number of violations cited.

RESPONSE: The term "substantial compliance" is defined in the rule as "compliance by a resource family parent or applicant who does not meet all applicable requirements of the law and of this chapter, when there is no serious or imminent hazard to the health, safety, well-being or rights of the children served, and the resource family parent or applicant is in full compliance with level I requirements." Substantial compliance is not measured by the number of violations cited, but by the nature of the violations. When all level I requirements are met, and the level II violations cited are not hazardous, the resource family parent or applicant is considered to be in substantial compliance with the rules.

14. COMMENT: The commenter raised questions about N.J.A.C. 10:122C-2.1(e), which sets conditions for placement of a child with a relative or family friend prior to licensure. The commenter expressed concern that a child placed prior to licensure might have to be moved if the license is later denied.

RESPONSE: In keeping with *A New Beginning*, the Department is committed to the goal of reducing the trauma of the placement experience, and prefers placements with extended family. The rules regarding pre-license placement (commonly known as presumptive eligibility) are intended to facilitate meeting those goals. Every effort will be made to reduce the need to move the child due to license denial after placement. The rules require a pre-placement life-safety home inspection and background checks of the household members, so that any serious violations likely to result in license denial would be identified before placement. The Department is also committed to the goal of concluding the licensing process within 90 days of receiving the license application, so that if a license must be denied after a child is placed, the child will have been in the home for a relatively short time period.

15. COMMENT: The commenter expressed concerns about N.J.A.C. 10:122C-2.2(b), which sets conditions for waivers of level II requirements for homes providing relative care. The commenter asked whether birth certificates and marriage certificates will be required to verify the relationship, and noted that the term "related" is not defined. The commenter expressed concern that the Kinship/Relative Support program may be eliminated if waivers are only permitted for blood relatives.

RESPONSE: Waivers of level II requirements will only be permitted for relative care homes because such a limitation is necessary in order to enhance the Department's ability to qualify for Federal funding under Title IV-E of the Social Security Act. While the term "related" is not defined in the rules, the term "relative care" is defined as care "in which the resource family parent is not a parent of the child in placement but is related to the child through blood, marriage or adoption." The Division may request documentation of the relationship as part of the home study and permanency planning for the child. The Department does not intend to eliminate the Kinship/Relative Support funding program.

16. COMMENT: The commenter expressed concerns about N.J.A.C. 10:122C-4.1(a)1, which requires compliance with the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23, and the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70, with respect to occupancy of a dwelling, health and fire safety provisions. The commenter recommended that the Office of Licensing provide all resource family parents with copies of the specified rules. For resource family parents who rent their homes, the commenter recommended that the landlord be held responsible for compliance with the specified rules.

RESPONSE: It would not be practical for the Department to provide all resource family parents with copies of the applicable provisions of the Uniform Construction Code (UCC) and the Uniform Fire Code (UFC). These provisions may be several hundred pages long and are subject to change by the Department of Community Affairs, the State agency responsible to enforce those rules. If a licensing inspector observes possible violations of the UCC or UFC in a resource family home, the Office of Licensing will contact the appropriate State or local construction or fire office. A representative of the construction or fire office will conduct an inspection to determine whether repairs are necessary to bring the property into compliance with the UCC or UFC. If the resource family parent does not own the property, the property owner may be obligated to make the necessary repairs.

17. COMMENT: The commenter raised a question about N.J.A.C. 10:122C-4.1(b)5, which requires a telephone to be in service in the home at all times when a child in placement is present. The commenter asked whether a cell phone is acceptable to meet the requirement.

RESPONSE: A cell phone will be accepted to meet the requirement, provided that the cell phone is in service in the home at all times when a child in placement is present. A cell phone that is inoperable due to battery failure or lack of cellular service, or is removed from the home, will not be accepted to meet the requirement.

18. COMMENT: The commenter raised questions about N.J.A.C. 10:122C-4.1(b)6, which requires the resource family parent to follow the recommendations of the Department of Health and Senior Services if that Department determines that corrective action must be taken to minimize exposure to asbestos. The commenter asked when and how such a determination will be made, and whether the resource family parent will have to pay an inspection fee.

RESPONSE: If a licensing inspector observes a possible asbestos exposure hazard in a resource family home, the Office of Licensing will contact the appropriate State or local health office. A representative of the health office will conduct an inspection, and may require laboratory testing in order to determine whether corrective action is needed. A fee may be charged by a private laboratory.

19. COMMENT: The commenter raised questions about N.J.A.C. 10:122C-4.1(f)3, which requires water in swimming pools or natural bathing areas to be checked for contaminants. The commenter asked who will do this checking and prescribe the remedies if needed.

RESPONSE: The property owner is responsible for checking and maintaining water quality. Inexpensive water testing kits are available in pool supply and home improvement stores. Contaminated water can be remedied by applying chlorine.

20. COMMENT: The commenter expressed concerns about N.J.A.C. 10:122C-4.2(b)1i, which requires a minimum ceiling height of seven feet in bedrooms for children in placement; N.J.A.C. 10:122C-4.2(d)3, which prohibits a room used as a bedroom by anyone in the resource family from being used for any other purpose; and N.J.A.C. 10:122C-4.2(d)4, which prohibits children in placement over five years of age from sharing a bedroom with a child of the opposite sex. The commenter expressed the opinion that a ceiling height below seven feet is not a safety hazard for children. The commenter noted that many families cannot afford a three-bedroom apartment, and often make do by using a convertible couch in a living area as a bedroom, or having opposite-sex children share a bedroom.

RESPONSE: The Department recognizes the commenter's concerns but declines to change the rules. A bedroom ceiling height below seven feet is a safety hazard because children may injure their heads in doorways or on high furniture such as bunk beds. Sleeping in a living area and sharing a bedroom with the opposite sex are inappropriate because these practices may violate children's privacy and place them at risk of inappropriate sexual behavior.

21. COMMENT: The commenter raised a question about N.J.A.C. 10:122C-4.3(b), which requires the resource family home to have a first aid kit. The commenter asked whether the kits will be supplied by the State.

RESPONSE: First aid kits will not be supplied by the State. The resource family parent is obligated to purchase a first aid kit or assemble the appropriate items from inexpensive supplies easily available in drugstores.

22. COMMENT: The commenter raised concerns about N.J.A.C. 10:122C-5.1(a)4, which requires the resource family parent to have sufficient income to be economically independent of board subsidy payments from the Department. The commenter recommended that temporary income, such as Temporary Assistance to Needy Families (TANF), should not disqualify someone from licensure, and that persons who have filed for bankruptcy be excluded from licensure until their debt is resolved.

RESPONSE: The board subsidy payments in the rule refer to board subsidy payments for children in placement, which do not include TANF funds. A resource family parent receiving TANF will not be disqualified from licensure for that reason alone. A resource family parent who has filed for bankruptcy will need to document sufficient income to be economically independent of board subsidy payments from the Department, but will not automatically be disqualified due to the bankruptcy filing alone.

23. COMMENT: The commenter expressed concerns about N.J.A.C. 10:122C-5.3(c)1, which requires an annual inspection of the resource family home by the Division or the Office of Licensing. The commenter recommended that an annual inspection be conducted by the Resource Family Support Worker, rather than by a licensing inspector. The commenter also noted that the resource family parent is not required to sign an agreement to abide by this rule.

RESPONSE: In keeping with *A New Beginning*, the Department is in the process of hiring Resource Family Support Workers in Division offices throughout the State. The Office of Licensing plans to conduct its annual inspection of the resource family home in a joint visit with the Resource Family Support Worker. An annual inspection is required by the Resource Family Parent Licensing Act (see N.J.S.A. 30:4C-27.7b(1)). While the resource family parent is not required to sign an agreement to comply with this specific rule, the license application includes a signed agreement to comply with all licensing requirements.

24. COMMENT: The commenter raised a question about N.J.A.C. 10:122C-5.4(b), which permits the Department to issue a six-month license pending completion of the Federal portion of the Criminal History Record Information (CHRI) fingerprint background check, under certain conditions. The commenter asked the reason for this rule, since the Live Scan automated fingerprinting system generally provides both State and Federal CHRI results simultaneously.

RESPONSE: The rule in question reflects statutory provisions at N.J.S.A. 30:4C-26.9. Although State and Federal CHRI results are usually received simultaneously, the statute and rules allow for situations in which there is a delay in receiving the Federal CHRI results.

25. COMMENT: The commenter expressed concern about N.J.A.C. 10:122C-5.6(a), which requires the resource family parent to complete pre-service training provided or approved by the Department. The commenter asked whether treatment home parents seeking to adopt children in their care would have to complete additional training to qualify for adoption. The commenter also asked whether resource family parents from another state who relocate to New Jersey might have to complete additional training in order to continue caring for children placed by the child welfare agency in another state.

RESPONSE: This chapter does not apply to treatment homes; training requirements for treatment home parents are specified at N.J.A.C. 10:128-5.4. The Department is reviewing the existing rules for treatment homes at N.J.A.C. 10:128 and anticipates proposing substantive amendments in 2006. A resource family parent who relocates from another state will be required to complete the Department's training program, unless the Department determines that the other state's training program is equivalent.

26. COMMENT: The commenter raised questions about N.J.A.C. 10:122C-6.3(d), which requires each child in placement who is three or four years old, or five years old and not in kindergarten, to attend an early childhood education program. The commenter asked the reason for this requirement if the resource family parents are not employed outside the home. The commenter also asked who will pay for the required early childhood education.

The anonymous foster parents also expressed concerns about this rule. The commenters noted that the current funding program does not provide child care funding for resource family parents where one parent works part time (less than 20 hours per week) or stays at home. The payment rate is well below the average cost of child care, leaving many resource families to pay the difference. The commenters expressed the opinion that registered family day care providers should not be included as a type of early childhood education program, because such providers are not required to provide any curriculum or educational programming.

The commenters also expressed concern that the rule does not adequately address "special needs" (medically fragile) foster children, especially those placed in SHSP homes. Behavioral or medical restrictions may preclude these children from attending most child care centers that provide typical early childhood education programs.

RESPONSE: The Department agrees in part with the comments and has changed the rule on adoption at N.J.A.C. 10:122C-6.3(d) to add options indicating that an acceptable early childhood education program may be one provided or approved by the Department of Human Services, the Department of Education or the Department of Health and Senior Services. The rule change is intended to accommodate children with disabilities who attend special education programs other than a private school, public school, child care center or family child care home.

In keeping with *A New Beginning*, the Department is committed to the goal of ensuring that all preschool children in resource family care attend an early childhood education program, regardless of whether the resource family parents are employed outside the home. Early childhood education is recognized as an important element in preschool children's development and readiness for school. The rule specifies a variety of options for such education, including public schools, private schools, child care centers, and family child care homes, as well as the options added on adoption, and requires the program to be approved by the caseworker as meeting the child's educational needs.

While family child care homes are not required to meet the same licensing requirements as child care centers, they are required to provide structured activities, play equipment and creative materials (see N.J.A.C. 10:126-6.12). A child

who already attends a registered family child care home would not be required to attend a different early childhood education program as a result of this rule, unless the family child care home is not approved by the child's caseworker as meeting the child's educational needs.

Resource family parents who reside in the school districts designated by the Department of Education as Abbott districts may enroll children in Abbott preschool programs without charge. Children in placement may also be eligible for Head Start, which provides Federally funded early childhood education without charge. Many public school districts also provide free preschool programs for children with special needs, and some provide free preschool or pre-kindergarten programs for all children residing in the school district. All of these programs will be acceptable as early childhood education programs under the adopted rules.

### **Hyacinth AIDS Foundation and the Center for HIV Law and Policy**

The representatives of the Hyacinth AIDS Foundation and the Center for HIV Law and Policy recommended several changes and additions to the new rules.

27. COMMENT: The commenters recommended adding new provisions to N.J.A.C. 10:122C-3.1, which specifies the rights of children in placement. The commenters recommended new rules that would: recognize children's right of access to reproductive and sexual health care and education; ensure the provision of services related to sexually transmitted diseases, pregnancy and Human Immunodeficiency Virus (HIV); recognize a minor's right of autonomy and privacy in accessing sexual health services; and assure freedom from discriminatory treatment on the basis of gender, gender identity and sexual orientation. Adolescents have a recognized right of access to reproductive and sexual health care and education, including services related to sexually transmitted diseases.

RESPONSE: The Department recognizes the commenters' concerns but finds no need to change the rules. The rules already require the resource family parent to ensure the child's right to medical treatment as needed and to appropriate education (N.J.A.C. 10:122C-3.1(a)2). The recommended provisions are implicit in the rule and in the Child Placement Bill of Rights Act (N.J.S.A. 9:6B-1 et seq., cited at N.J.A.C. 10:122C-3.1(a)).

The rules in question do not conflict with N.J.S.A. 9:17A-4, which permits consent to medical treatment "by a minor who is or professes to be afflicted with a venereal disease, or by a minor who, in the judgment of a treating physician, appears to have been sexually assaulted" and with N.J.S.A. 9:17A-5, which states that medical personnel "may, but shall not be obligated to, inform the spouse, parent, custodian or guardian of any such minor as to the treatment given or needed, and such information may be given to, or withheld from the spouse, parent, custodian or guardian without the consent of the minor patient and even over the express refusal of the minor patient to the providing of such information."

28. COMMENT: The commenters recommended adding new provisions to N.J.A.C. 10:122C-3.2, which specifies the records to be kept by a resource family parent. The commenters recommended new rules that would accommodate minors' recognized rights to control access to information related to confidential health care services, including reproductive/sexual health care. Accommodation of adolescents' right to control access to information and records about these types of services has long been recognized as essential to ensuring their willingness to seek health and life-preserving care.

RESPONSE: The Department recognizes the commenters' concerns but declines to change the rules. It is essential for the resource family parent to be fully informed of the medical history and health care services received by a child in placement, in order to provide appropriate care for the child. Lack of such knowledge could harm the child if the resource family parent failed to seek necessary medical treatment or permitted treatment that was inappropriate for the child's medical condition.

As noted above, the rules do not conflict with applicable statutory provisions at N.J.S.A. 9:17A-4 and 5. N.J.A.C. 10:122C-3.2(b)2 requires the resource family parent to maintain information about the child's medical history on file in the home. In practice, the regulation only applies to medical information that has been provided to the resource family parent. If medical personnel choose to withhold information from the resource family parent about the medical treatment of a child in placement, the Department would not require the resource family parent to have that information on file.

29. COMMENT: The commenters recommended changes to N.J.A.C. 10:122C-5.1(a)2i, which requires the resource family parent to be free of serious contagious diseases which may put a child in placement at risk. The commenters recommended adding the phrase "through routine or casual contact" in order to distinguish between serious conta-



gious diseases that are transmitted through casual contact and those that pose no risk to children in placement through routine family activity. Failure to make this distinction clear risks violation of the rules' provision on discrimination, which prohibits exclusion of prospective resource family parents on the basis of disability, and State and Federal anti-discrimination law recognizing HIV as a protected disability.

RESPONSE: The Department recognizes the commenters' concerns but finds no need to change the rules. The rule clearly states that the resource family parent must be free of serious contagious diseases that may put a child in placement at risk. A disease that cannot be transmitted through routine or casual contact would not place a child at risk and therefore would not disqualify the resource family parent from licensure.

N.J.A.C. 10:122C-1.6 already prohibits discrimination with regard to the application or licensure of a resource family parent on the basis of race, color, national origin, age, disability, gender, religion, sexual orientation, parental status, birth status or marital status. The Department fully supports the rights of persons with disabilities and exercises diligence in complying with the Law Against Discrimination (LAD), N.J.S.A. 10:5-1 et seq., and the Americans with Disabilities Act (P.L. 101-336, 42 U.S.C. § § 12101 et seq.). However, the enforcement of those statutes is not the responsibility of this Department. Questions or complaints about the rights of persons with disabilities should be addressed to the Division on Civil Rights in the New Jersey Department of Law and Public Safety.

30. COMMENT: The commenters recommended adding new provisions to N.J.A.C. 10:122C-5.2(c)5, which specifies the information to be provided by the resource family parent's personal references. The commenters recommended adding a new rule requiring personal references to provide information needed to assist the Department or contract agency in evaluating "the extent to which the applicant's experience, organizational or religious affiliation, attitudes or beliefs may be incompatible with supportive and responsible parenting of any child because of that child's race, national origin, disability, gender and gender identity, sexual orientation or religion."

RESPONSE: The Department recognizes the commenters' concerns but finds no need to change the rules. The rule already requires the personal references to provide information regarding the individual's suitability to care for children, personal characteristics, ability to provide love and security to a child, and affiliation with any groups incompatible with responsible parenting (N.J.A.C. 10:122C-5.2(c)1 and 5). The recommended provisions are implicit in the rule.

31. COMMENT: The commenters recommended adding new provisions to N.J.A.C. 10:122C-5.6(a)1, which requires each applicant to complete pre-service training, provided or approved by the Department, that will adequately prepare the applicant with the appropriate knowledge and skills to provide for the needs of the children who are or may be placed in the home. The commenters recommended adding the phrase "including but not limited to cultural competence with respect to a child's race, national origin, disability, gender and gender identity, sexual orientation and religion." Because much mistreatment of lesbian, gay, bisexual and transgender (LGBT) children in placement is a result of ignorance on the part of the caretaker, and an absence of written standards and expectations for their treatment of these children, the Department must affirmatively ensure in its training that the New Jersey Law Against Discrimination is understood and followed.

RESPONSE: The Department recognizes the commenters' concerns but finds no need to change the rules. The Department has established a new nationally recognized resource family parent training program called Parent Resources for Information, Development and Education (PRIDE), developed by the Child Welfare League of America and the Illinois Department of Children and Family Services. PRIDE includes training in supporting the development of self-esteem, personal identity and cultural identity, and provides an annotated list of resources on gay, lesbian, bi-sexual and transgendered youth.

32. COMMENT: The commenters recommended adding new provisions to N.J.A.C. 10:122C-6.5(d), which prohibits the resource family parent's religious practices from interfering with a child in placement receiving medical care. The commenters recommended adding the phrase "including but not limited to mental health, sexual health, or reproductive health services and information, or interfere with the child's expression or questioning of his or her sexual orientation or gender identity, regardless of the child's age." The rules should recognize and address the child's right to services related to mental, sexual and reproductive health, and the need to accommodate and respect the child's sexual orientation and gender identity.

RESPONSE: The Department recognizes the commenters' concerns but finds no need to change the rules. The rule already prohibits the parent's religious practices from interfering with the child receiving medical care (N.J.A.C. 10:122C-6.5(d)). Appropriate medical care includes mental health, sexual health and reproductive health services. The recommended provisions are implicit in the rule.

33. COMMENT: The commenters recommended amending N.J.A.C. 10:122C-6.10(a)1, which requires the resource family parent to ensure that each child in placement has a personal supply of adequate, clean, well-fitting, and attractive clothing appropriate to the child's age, gender, individual needs, community standards and season. The commenters recommended deleting the phrase "community standards" and inserting the phrase "including those related to gender identity and expression." The commenters stated that on occasion gay or transgender children in foster care have been unfairly prohibited from wearing clothing of their choice on the basis that the clothing was not gender-appropriate. The failure to recognize the existence of questioning and transgender youth in the foster care system, and the use of such terms as "community standards" in this context can lead to judgmental, and potentially discriminatory, treatment of non-heterosexual children. The unsupportive and judgmental treatment of LGBT and questioning youth has a demonstrated connection to their engagement in high-risk behavior.

RESPONSE: The Department recognizes the commenters' concerns but finds no need to change the rules. The rule in question does not prescribe or restrict a child's choice of clothing, and does not require the child to wear what the resource family parent prefers. The rule only requires the resource family parent to ensure that clothing is provided. Failure to provide adequate, clean, well-fitting, and attractive clothing appropriate to the child's age, gender, individual needs, community standards and season could endanger a child's health or expose a child to social rejection in the community. For example, if a child in placement attends a school that requires children to wear uniforms, the resource family parent would be required to ensure that clothing meeting the school's standards is provided.

34. COMMENT: The commenters recommended adding new provisions to N.J.A.C. 10:122C-7.1(a), which specifies level I requirements for health care and medical treatment for children. The commenters recommended adding a new rule: "The resource family parent shall ensure that comprehensive, scientifically-sound sexual health services and information, including but not limited to STD screening, treatment and information, HIV prevention education and diagnosis, reproductive health and contraceptive services and information, is available to each child in placement who otherwise possesses capacity to understand such services. Such services and information shall be provided by trained, qualified professionals and shall equally accommodate the needs of all youth in care without regard to gender, sexual orientation, gender identity and expression, or religion." The rules must address the pressing need for comprehensive sexual health care and education to address the significant incidence and risk of HIV among children in placement.

RESPONSE: The Department recognizes the commenters' concerns but finds no need to change the rules. The rules already require an educational program for school-age children (N.J.A.C. 10:122C-6.3(a)) and an early childhood education program for preschool children (N.J.A.C. 10:122C-6.3(d)). Age-appropriate health education is a standard part of the curriculum in early childhood, elementary and secondary education. In addition, many schools provide individual health care services on site or referrals to community health services for students. Students aged 13 to 19 in all 21 counties of the State may access free, confidential services through the Department's School Based Youth Services Program, including access to primary and preventative health services, pregnancy prevention programs and referrals to community based service providers.

### **Barbara Devenezia and the anonymous resource family parents**

Barbara Devenezia and the anonymous resource family parents raised questions about N.J.A.C. 10:122C-6.1(a)3, which sets requirements for temporary caregivers when care is provided for a child in placement on behalf of the resource family parent for more than three consecutive days, either in the resource family home or in the temporary caregiver's home.

35. COMMENT: Proposed N.J.A.C. 10:122C-6.1(a)3ii requires the temporary caregiver to complete a Child Abuse Record Information (CARI) background check and a check of court records, known as a PROMIS/GAVEL check. The commenters asked who will bear the burden of the cost of these background checks, and whether the background checks could be completed quickly if care is needed on short notice.

RESPONSE: All background check costs for resource family parents and household members will be paid by the Department. In the case of temporary caregivers, results of a CARI check and PROMIS/GAVEL check can usually be obtained in one day.

### **Anonymous resource family parents**

The anonymous resource family parents raised questions and concerns about several additional issues.

36. COMMENT: The commenters expressed concerns about the definition of the term "medically fragile child" at N.J.A.C. 10:122C-1.3, which defines the term as "a child who is between the ages of birth and three years and exhibits functional limitations identified in terms of moderate to marked developmental delay and psychosocial elements requiring nursing care over and above routine nursing baby care; or is over three years of age and limited in terms of specific age-appropriate physical and mental activities, activities of daily living or abnormal behavior, as demonstrated by performance at home, social or recreational activities."

The commenters are caring for two developmentally delayed children. The commenters expressed the opinion that the definition would inappropriately limit the placement of these children to Special Home Service Provider (SHSP) homes.

RESPONSE: The definition of the term "medically fragile child" corresponds to the existing definition in Division policy, which enhances the Department's ability to qualify for Federal Medicaid funding for services to medically fragile children. The definition itself does not indicate where a particular child will be placed; the Department does not require that all disabled children needing resource family care must be placed in SHSP homes. While a SHSP home is the preferred option for medically fragile children, it may be in the best interests of a specific child to remain in an existing placement in a non-SHSP home, provided that the resource family parents are trained to meet the child's specific needs. The Department does not intend to remove children from existing placements as a result of the new rules.

37. COMMENT: The commenters expressed concerns about N.J.A.C. 10:122C-2.3(a), which requires a resource family parent seeking renewal of a license to submit a completed license application to the Office of Licensing at least 45 calendar days prior to the expiration of the current license. The commenters recommended that the Office of Licensing notify the resource family parent of any impending renewal dates, perhaps by mailing out the renewal paperwork six months before the license is due to expire.

RESPONSE: As a routine licensing practice and policy, the Office of Licensing sends a renewal notice and application to the resource family parent 2 1/2 to three months before license expiration. The Department considers this adequate notice to enable the resource family parent to submit the application on time.

38. COMMENT: The commenters expressed concerns about N.J.A.C. 10:122C-6.6(a)9, which requires the resource family parent to follow a written infant feeding plan developed with the child's health care provider that includes the feeding schedule, special formula, nutritional needs and introduction of new foods. Most health care providers do not provide written feeding plans for infants. Feeding schedules for infants change often, based on numerous factors out of the resource family's or health care provider's control. To have to continually update this document would require resource family parents to continually bring infants to their health care provider, which is time-consuming and burdensome. Many resource families take advantage of the WIC program (the New Jersey Supplemental Nutrition Program for Women, Infants and Children), which provides nutritional and medical oversight. This would seem to be sufficient to ensure the well-being of young foster children.

RESPONSE: The rule in question does not require the infant feeding plan to be prepared or updated by the child's health care provider, but to be developed with the health care provider. For example, the health care provider may give the resource family parent a booklet or information sheet with infant nutrition guidelines, which would then be updated by the resource family parent as needed for the individual child. An infant feeding plan developed with a nutritionist, dietitian or nurse through the WIC program would also be acceptable.

39. COMMENT: The commenters expressed concerns about N.J.A.C. 10:122C-3.4(f), which requires the resource family parents to notify the child's caseworker of vacation plans in which the resource family parent or child in placement will be absent from the home overnight. The commenters have experienced difficulty in reaching their foster child's caseworker. With all the recent staffing changes, they have rarely had a direct-dial phone number, let alone a full name for the caseworker. Something as simple as a dedicated e-mail address or generic voice mailbox would be a positive step forward in this regard. The commenters also felt it would be unreasonable to expect the resource family parent to contact the caseworker each time a child or parent has overnight plans, and would be burdensome for caseworkers to track.

RESPONSE: In order to ensure children's safety, the Division must know where all children in placement are housed and who is caring for them at all times. Recent cases in which children's whereabouts were unknown and their safety was in question highlighted the importance of informing the child's caseworker about overnight plans. The preferred means of communication, whether by e-mail, phone or voice mailbox, is up to each caseworker and resource family parent to agree on.

### **Christine Dudas**

Christine Dudas expressed concerns about two issues.

40. COMMENT: The commenter expressed concerns about N.J.A.C. 10:122C-1.5, which establishes new provisions for level I and level II requirements, and sets time frames for abatement of violations. The commenter has experienced difficulty in receiving the support that would be needed to abate violations. She has waited over a month for her caseworker to return telephone calls regarding questions about her application for funding.

RESPONSE: As noted above, the Department is in the process of hiring Resource Family Support Workers (RFSWs) in Division offices throughout the State. RFSW caseloads will be limited so they have the time necessary to support and assist resource family parents in complying with licensing requirements.

41. COMMENT: The commenter expressed concerns about N.J.A.C. 10:122C-5.3(a)13, which requires a description of any current or previous problem behaviors, alcoholism or alcohol consumption, drug usage, and other factors as part of the home study of a prospective resource family. The commenter indicated that she knows resource family parents who are in recovery from past usage of alcohol or drugs, and who would not want to reveal their past history.

RESPONSE: The rule is necessary so that the Division can evaluate the resource family's suitability and ensure that any history of alcohol or drug usage does not present a current risk to children. The existence of such a history will not automatically disqualify the family, but will provide resource family parents with an opportunity to explain their successful recovery.

### **Georgianne and George Merlo**

Georgianne and George Merlo expressed concerns about N.J.A.C. 10:122C-7.1(a)7, which requires a dental examination for children within three months of placement and annually thereafter. The rule indicates that a resource family parent who is unable to locate a dentist willing to provide service to the child should contact the Division or contract agency caseworker for assistance in locating a provider.

42. COMMENT: The commenters indicated that their dentist tried repeatedly to collect payment for the services he provided to their foster children, but with all the "red tape" he eventually gave up.

RESPONSE: Payment for dental services is available through the Medicaid program, which is governed by the Dental Services Manual, N.J.A.C. 10:56, and through the New Jersey Family Care Children's Program, which is governed by N.J.A.C. 10:79. Complaints and questions about Medicaid services may be addressed to the Medicaid Medical Assistance Help Line at 1-800-356-1561. Complaints and questions about Family Care may be addressed to the Family Care Health Insurance Help Line at 1-800-701-0710. Dental services are also available at New Jersey's Centers for Primary Health Care for the uninsured and underinsured, as well as for patients with Medicaid, Medicare and private insurance.

### **Karen Ramseur, Susan and Felix Glennon and the anonymous foster children**

Karen Ramseur, Susan and Felix Glennon and the anonymous foster children expressed concerns about N.J.A.C. 10:122C-5.7(b)4, which sets new capacity limits for SHSP homes for children placed on or after the effective date of the new rules. The proposed rules limited SHSP homes to no more than two medically fragile children, and no more than four children in total residing in the home, including medically fragile children, other children in placement, and all other children in the resource family.

43. COMMENT: The commenters expressed concern over the effects of the rules on SHSP parents who have adopted or seek to care for medically fragile children. Ms. Ramseur indicated that she has many years of experience as a nurse working with medically fragile children who blossom, grow and heal in such homes. The Glennons have been providing foster care to medically fragile children for over 13 years. They are parents of three medically fragile adopted siblings and one biological child, and would like to care for additional medically fragile children. The anonymous foster children expressed concern that their home would be closed as a result of the new rules.

RESPONSE: The Department agrees and has changed the rules on adoption at N.J.A.C. 10:122C-1.4(a)2, (b) and (c) and N.J.A.C. 10:122C-5.7(b)4 to indicate that the capacity limits for SHSP homes are the same as those for non-SHSP homes. The Department has deleted the proposed regulations that limited SHSP homes to no more than two

medically fragile children, and no more than four children in total residing in the home, without special approval from the Office of Licensing. The change is intended to accommodate children with disabilities. To meet the wide range of needs included in the definition of "medically fragile child," individual children can best be served by determining capacity for SHSP homes on a case-by-case basis. As a matter of policy rather than rulemaking, the capacity of each SHSP home will be tailored to the specific medically fragile child in need of placement.

The new capacity limits at N.J.A.C. 10:122C-1.4, which will apply to both SHSP and non-SHSP homes, refer to children placed after the effective date of the rules. The Department does not intend to remove children from existing placements as a result of the new capacity limits. As noted above, the rules at N.J.A.C. 10:122C-1.4(b) allow the Department to license a resource family home for more than the specified capacity limits if necessary to keep sibling groups intact or to serve the best interests of a specific child or children who are or may be placed in the home. The rules also allow the Department to license a resource family home for less than the specified capacity limits, as indicated at N.J.A.C. 10:122C-1.4(c).

### **Yvonne Smith Segars, Public Defender**

#### **Office of Law Guardian, New Jersey Office of Public Defender**

Yvonne Smith Segars in the Office of the Law Guardian expressed concerns and made recommendations about several provisions in the proposed rules.

44. COMMENT: The commenter noted that the proposed rules impose the same licensing requirements on non-relative caregivers and kin and family friends who seek placement of specific children in their homes. The commenter expressed concern that the rules may, therefore, impede the placement of children with relative or family friend caregivers.

Under the proposed rules, level I requirements apply to all potential caregivers, including family friends and relatives. The commenter recommended that the rules be redrafted to provide for some appropriate relaxation of the rules in cases of relative/family friend placements where DYFS has determined that the placement is safe and meets the best interests of the child, but where there may not be full compliance with all level I provisions.

The uniform application of all licensing requirements to all homes, including those of family members and/or family friends seeking to provide homes for children as "relative care" and "family friend care" (definitions set forth in proposed N.J.A.C. 10:122C-1.2(b)6 and 7) fails to recognize and value the special relationships and benefits that accrue to children when they are cared for by those who know and love them, rather than by well-intentioned strangers. The benefits of placement of children with family members who know and love them are obvious to most casual observers.

New Jersey law recognizes these benefits as special rights belonging to children in placement, as in the Child Placement Bill of Rights Act, N.J.S.A. 9:6B-1 et seq., and has attached special statutory protection to these placement rights with relatives, including siblings. Moreover, the Legislature's passage of the Kinship Guardianship Act of 2001 (N.J.S.A. 30:4C-85 et seq., P.L. 2001, c. 250) significantly changed this State's public policy regarding the placement of children with their family and friends. Kinship Legal Guardianship (KLG) created an important alternative permanency plan for children, and provided financial support for these relationships. While creating a new legal relationship for the child, KLG explicitly preserves the parental legal relationship, and gives kinship legal guardians many of the same responsibilities and authority that would otherwise be exercised by parents.

The proposed rules undermine this public policy initiative by failing to provide appropriate provisions drafted specifically relating to KLG providers. Certainly, such licensing must adhere to the fundamental need to ensure the safety of homes in which DYFS places children, including kinship providers. Such a need was recognized in the KLG statute itself, which currently requires DYFS to complete a kinship caregiver assessment. Currently, the KLG statute enables DYFS to place children with relative/family friend caregivers and to support these placements as deemed appropriate without the need for full licensure.

If these rules were to be adopted as proposed, children would not be placed with family or friends without the kinship caregiver's adherence to the full panoply of licensing rules applicable to all caregivers, whether or not the condition(s) in the home present a significant safety risk to the child or children. The rules should be consistent with the sound public policy that supports placement of children with family where possible, reflective in particular in the KLG Act. The rules appear to be inconsistent with this sound public policy notwithstanding the fact that the proposed rule

N.J.A.C. 10:122C-2.1(e) permits temporary placement of a child with a relative or family friend pending full compliance with the proposed rules.

The commenter recommended that the rules be rewritten to recognize explicitly the special circumstances where kinship families seek to care for particular, identifiable children with whom they have a relationship. Consideration should be given to developing a less onerous set of licensing requirements, including a waiver process applicable to relatives and family friends who make themselves available as a placement resource and where an initial assessment completed by the Division has determined the appropriateness and safety of the placement on a case-by-case basis.

RESPONSE: The rules apply uniform licensing standards to all homes and permit waivers only for relatives because these provisions are required for Federal financial participation. According to Administration for Children and Families (ACF) Information Memorandum ACYF-CB-IM-01-05, "the State must apply those standards equally to all foster family homes, unless a waiver of a standard has been granted with respect to a particular relative foster family home."

The rules contain provisions for waivers of level II licensing requirements to facilitate placement of children with relatives. Provisions for waivers of specific requirements for homes providing relative care were proposed and are being adopted with changes at N.J.A.C. 10:122C-2.2(b). Waivers may be granted on a case-by-case basis, only for non-safety standards for a specific child or children in placement. For the purpose of determining whether a waiver will be granted, level II requirements will be considered non-safety standards.

The commenter recommended that waivers be permitted for family friends as well as relatives; however, inclusion of such provisions in the rules would jeopardize the Department's eligibility for Federal funding. The rules were drafted to satisfy criteria for claiming reimbursement through Title IV-E of the Social Security Act. According to ACF Information Memorandum ACYF-CB-IM-01-05:

"A waiver of a standard may be made only on a case-by-case basis, and applied only to non-safety standards in relative foster family homes for specific children in care. This policy is consistent with section 471(a) (19) of the Act which requires States to consider preference to relative caregivers, provided that the relative caregiver meets all relevant State child protection standards. States must determine which of the standards are not safety-related."

The application of safety standards to relatives and family friends caring for children in placement is not a new practice. Safety standards for kinship and relative homes have been established in Division policy for many years, consistent with public policy and applicable statutes. The new rules provide a uniform approach to assessing safety by specifying precisely which requirements cannot be overlooked without endangering children. In drafting the rules, the Department identified the most essential safety-related requirements as level I, as a tool to ensure that the same basic safety standards are imposed on all homes in a clear and equitable manner. A home that is not in full compliance with level I requirements would not be a safe placement, regardless of the child's familial relationship or emotional bond with the caregiver.

45. COMMENT: The commenter expressed the view that level I requirements should not unreasonably interfere with placements in homes that are not fully compliant with all level I requirements but are determined to be placements which meet the primary public policy goal of achieving placements in the best interests of the child. The rules, as drafted, impede the statutorily based balance between safety concerns and the "best interests of the child" standard.

The proposal is confusing and inconsistent with respect to the manner in which it treats enforcement of level I "full compliance" requirements. In some sections of the proposed rules, the commitment to an unwavering and unyielding interpretation is evidenced. The commenter identified N.J.A.C. 10:122C-1.5, 2.2(a) and 2.4(b)9 as examples. However, that strict approach is softened elsewhere. For instance, N.J.A.C. 10:122C-2.2(e) takes a decidedly more moderate, and reasonable, approach to the issue: "If a license cannot be issued because there is a serious or imminent hazard to the rights, education, health, safety . . . of a child who is or may be placed in the home, the Office of Licensing shall provide written notification to the applicant indicating the steps . . . [necessary] to secure a license." The qualifying language of "serious or imminent hazard" standard is decidedly less stringent and more compromising than the full compliance language, focusing as it does on the seriousness of the hazard, and not the mere existence of any non-complying condition.

The language that focuses on the seriousness of the hazards presented is also more consistent with the underlying statutory enactment, which provides two key provisions on the issue of license denial, suspension or revocation germane to the appropriateness of the "full compliance" notion. For example, N.J.S.A. 30:4C-27.9 permits the division to grant or to continue a license even when circumstances occur which may warrant denial, suspension or revocation contrary to the proposed notion of "full compliance." Specifically, N.J.S.A. 30:4C-27.9 provides, *inter alia*, that

The department may deny, suspend or revoke a license for good cause, including but not limited to: . . .

d. A determination that an incident of child abuse or neglect by a resource family parent applicant or any adult member has been substantiated except that the department may issue the license if the department determines that the resource family parent applicant or adult household member poses *no continuing risk of harm* to the child and the issuance of the license is in the child's best interests.

. . .

i. Any conduct, engaged in or permitted, which *adversely* affects or presents a *serious hazard* to the education, health, safety, general well-being or physical, emotional and social development of the child residing in the foster home, or which otherwise fails to comply with the standards required for the provision of foster care to a child and the maintenance of a foster home. (emphasis added by commenter)

The proposed regulations should adopt a similar approach permitting consideration of relevant factors relating to the child's safety and well-being rather than the current "full compliance" notion which may automatically preclude otherwise appropriate placements. The proposed rules should be reformulated to reflect that placements which may fail to meet a "full compliance test" should nonetheless be considered as an appropriate placement if such homes do not present a serious risk of harm *and* such placement is in the best interest of the child.

The commenter noted that where there is existing litigation before the family court in Title 9 or Title 30 cases and a child is in placement as a result of a court order, the court and the parties involved must be notified in advance of any determination that would result in the removal of a child from an existing placement or other licensing decisions that would affect a child's placement.

RESPONSE: The rules cited as inconsistent by the commenter were designed to address different circumstances. N.J.A.C. 10:122C-1.5, 2.2(a) and 2.4(b)9 address the differential levels of compliance necessary to receive or maintain a license. By contrast, N.J.A.C. 10:122C-2.2(e) refers to situations in which a license cannot be issued at all, because the hazard to children is too severe (serious or imminent hazard). The statutory language cited by the commenter refers to the grounds for denying, suspending or revoking a license - actions that would certainly be justified in case of serious or imminent hazard. However, the Department recognizes a middle ground: substantial compliance, in which the home is not in full compliance with all licensing rules, but the noncompliance is not so severe as to disqualify the applicant from licensure, or to justify the denial, suspension or revocation of the license. The rules establish specific procedures to enable such homes to be licensed, provided that they meet the minimum "floor" necessary for children's safety. That "floor" is operationally defined as full compliance with level I licensing requirements.

The rules already provide for licensure of homes that fail to meet the "full compliance test," provided that the requirements in question are level II. If the resource family parent is related to the child, granting a waiver will excuse the home from complying with the specific requirement, subject to the terms and conditions of the waiver. If the resource family parent is unrelated (such as a family friend), the home may still qualify for initial licensure on the basis of substantial rather than full compliance. While the rules require the resource family parent to reach full compliance in order to maintain a license, in practice the home may not be subject to licensure long enough to reach that point. The Department is committed to the goal of decreasing the length of time that children are in temporary care. For kinship placements, it is anticipated that the child's status will become permanent (Kinship Legal Guardianship) within a short period of time. Once KLG status is finalized, the home will no longer be subject to licensure. Only those homes that remain open for foster care placements (usually children unknown to the resource family parent) will be obligated to maintain licensure over an extended period.

The comments regarding provisions of Title 9 and Title 30 in cases where there is existing litigation before the family court are beyond the scope of this chapter.

46. COMMENT: The commenter expressed the view that the proposed rules should uniformly reflect a shared responsibility approach to addressing the needs of children in placement that apportions responsibilities between caretakers and DYFS caseworkers, and other service providers. The rules should consistently require Division workers and resource families, including kinship families, to share responsibility and to work together to provide children in placement the services and goods that they need. In areas such as education (N.J.A.C. 10:122C-6.3), clothing (N.J.A.C. 10:122C-6.10) and transportation (N.J.A.C. 10:122C-8.1), the need for a shared approach and apportionment of responsibility is not only advisable, it may be required in order to meet the needs of the child.

At N.J.A.C. 10:122C-6.3(b) concerning educational needs, for example, the resource family is required to ". . . Attend school conferences and meet with school personnel when there are problems or periodic reviews" and to "inform the Division or contract agency caseworker about the academic progress of each child in placement." Stated this way, the rules as proposed evince none of the kind of cooperative, sharing arrangement that is vital to the well-being of the child, and to ensure that child in the agency's care and custody is receiving appropriate educational services. Moreover, the caregiver family may need assistance in navigating through the educational system. Equally important, in cases where the child's return home is likely to occur in the foreseeable future, parents are or should be actively involved in the child's progress in school. In these circumstances, the DYFS caseworker would need to interact with the parent regarding the child's progress, and may even be required to facilitate the apportionment of respective responsibilities between a resource family and a parent.

Likewise, the rules at N.J.A.C. 10:122C-3.4 should expressly articulate a shared sense of responsibility by requiring the Division caseworker to respond immediately to reports by the resource family parent of unusual incidents involving a child in placement, and to work collaboratively with the caregiver to identify and implement effective therapeutic intervention for the child.

Another example of an area where shared responsibility between a worker and a resource family parent seems essential is found at N.J.A.C. 10:122C-8.1(a), which sets forth level I requirements mandating that the resource family "provide or arrange for the routine transportation needs of each child." Currently, caseworkers and caregivers commonly share responsibility for transportation, and in some cases, the caseworker arranges or provides for transportation for a child to attend therapy or visits.

The proposed rules should generally reflect, and incorporate more specific instances detailing, shared responsibility between the Division and caregivers instead of shifting primary responsibility onto resource families to ensure that the child's needs are met. The commenter recommended promulgating a specific rule that explicitly and simply articulates the expectation of shared responsibility that should exist between the Division and the licensees. Thereafter, whenever it is appropriate in each individual subchapter, provisions of the rules should state the importance of continuing cooperation and communication between the resource family parent and the Division.

RESPONSE: The Department recognizes the importance of shared responsibility for children in placement, and is committed to the goal of supporting and valuing resource family parents. As noted above, the Department is in the process of hiring Resource Family Support Workers (RFSWs) to support and assist resource family parents in complying with licensing requirements. However, specifying the responsibilities of RFSWs is beyond the scope of this chapter.

In the examples cited by the commenter at N.J.A.C. 10:122C-6.3(b) and 3.4, the rules require the resource family parent to communicate with the Division or other agency staff about such matters as the child's academic progress and unusual incidents involving the child. Unless the resource family parent initiates the communication, the Division or other agency staff member will not have the information needed to enable assistance to be provided. In the example cited by the commenter at N.J.A.C. 10:122C-8.1(a), the rule requires the resource family parent to provide or arrange for transportation for the child. Resource family parents may comply with the rule and avail themselves of shared responsibility by contacting the caseworker to request transportation assistance.

47. COMMENT: The commenter expressed concern about the proposed rules at N.J.A.C. 10:122C-1.4(a)1i regarding capacity limits. The commenter noted that the underlying statutory provision at N.J.S.A. 30:4C-27.5 states:

"resource family parent" means a person who has been licensed pursuant to this act to provide resource family care to *five or fewer children*, except that the department may license a resource family parent to provide care for more than five children, if necessary, to keep sibling groups intact or to serve the best interests of the children in the home." (emphasis added by commenter)

The commenter expressed concern that the proposed rules inexplicably limit the maximum number to four children in placement, subject to the legislative exceptions regarding sibling groups and the best interests of the child test. The limitation appears arbitrary and without an articulated rationale to support it. The Division should redraft the proposed rule to ensure consistency with the capacity requirement established by statute.

RESPONSE: The Department disagrees. The statutory reference to "five or fewer children" does not confer a right upon the resource family parent to serve five children. The statutory definition of a resource family parent as "a person who has been licensed pursuant to this act to provide resource family care to five or fewer children" allows the Department to license a resource family parent to serve fewer than five children. It is within the Department's rulemaking authority to specify the capacity limit at fewer than five children.



In keeping with *A New Beginning*, the Department is committed to the goal of reducing the licensed capacity in resource family homes. The limit of four children is in keeping with best practice in child welfare, as recommended by the Child Welfare League of America, a nationally recognized advocacy organization, and is consistent with a settlement agreement that resolved a 1999 Federal class action lawsuit against the Division, *Charlie and Nadine H. v. McGreevey*, Docket No. 99-3678 (SRC), *United States District Court for the District of New Jersey*.

48. COMMENT: The commenter expressed concerns about provisions at N.J.A.C. 10:122C-2.1(e) regarding pre-license approval of applicants seeking to provide relative care or family friend care. The commenter expressed the view that this is a valuable and needed tool to ensure placement in the best interests of children. However, such approval requires "a life/safety inspection [that] . . . reveals no health, safety or fire hazard in the home or surrounding area." This standard is unacceptably vague, and needs clarification. For instance, the rule does not define "fire hazard" or set the parameters for "surrounding areas." When coupled with the breadth of the concept of full compliance as discussed above, it is essential that a clearer definition be formulated. The standard must be one that clearly defines the parameters and balances the needs of children to be placed with family or friends, unless there is a serious hazard outweighing the competing benefit of placement with family.

RESPONSE: The Department agrees and has changed the rule on adoption at N.J.A.C. 10:122C-2.1(e)1 to indicate that the pre-license life/safety inspection addresses the physical facility of the home and the premises where the home is located.

49. COMMENT: The commenter expressed concerns about provisions at N.J.A.C. 10:122C-2.2(b)1 and 2 regarding waivers. The commenter expressed the view that the presence of the waiver provisions to authorize issuance of a license on a case-by-case basis where not all standards are met and the placement poses no risk to the safety and well-being of the child is a positive and helpful provision. However, the waiver provisions as drafted in these sections are flawed. The rules do not describe the standards necessary to guide the administrative decision-making process. Valid rulemaking in this instance requires both 1) description of a procedure for the application of a waiver, and 2) more specific language which would guide administrative decision-making in determining whether a waiver should be granted. The standards or criteria for granting a waiver should include consideration of the negative impact upon the "specific child or children in placement" should the waiver not be granted.

RESPONSE: The Department agrees and has changed the rules on adoption at N.J.A.C. 10:122C-2.2(b) to describe the procedure for applying for a waiver and the standards to guide the administrative decision-making process in determining whether a waiver should be granted, including the impact on the specific child or children in placement. New N.J.A.C. 10:122C-2.2(b)1 requires requests for waivers to be made to the Office of Licensing in writing by the Division or contract agency, as applicable, with supporting information justifying the request. New N.J.A.C. 10:122C-2.2(b)3 indicates that a waiver may be granted at the discretion of the Office of Licensing upon consideration of the following criteria: the type or degree of hardship that would result to the resource family parent or applicant if the waiver were not granted; the negative impact on a specific child or children in placement if the waiver were not granted; and whether the waiver, if granted, would adversely affect the health, safety, well-being or rights of any child residing in the resource family home. There is no need for substantive change in the rule as proposed at N.J.A.C. 10:122C-2.2(b)2 (recodified as (b)4), which authorizes the Office of Licensing to determine the terms and conditions for a waiver.

The waiver criteria established on adoption reflect the Department's fundamental concern for the welfare of children in placement, which is implicit in the purpose of this chapter. Although the proposal did not explicitly state that the impact on children would be considered in the decision to grant a waiver, the Department fully intended to include the impact on children when waiver decisions are made. The changes on adoption explicitly indicate this intent to ensure that the impact on children is included in the waiver decision-making process.

50. COMMENT: The commenter expressed concerns about provisions at N.J.A.C. 10:122C-2.6(f) regarding licensure when child abuse or neglect is substantiated. The commenter noted that the rule is not completely consistent with the statutory provision in N.J.S.A. 30:4C-27.9d, which provides:

The department may deny, suspend or revoke a license for good cause, including, but not limited to: . . .

A determination that an incident of child abuse or neglect by a resource family parent applicant or any member of the resource family parent's household has been substantiated, except that the department may issue the license if the department determines that the resource family parent applicant or adult household member *poses no continuing risk of harm to the child and the issuance of the license is in the child's best interests.* (emphasis supplied by commenter)

The proposed rule considers only risks to the child and does not reflect this critically important aspect of the statute requiring consideration of the "best interests of the child." While these are related inquiries in considering the overall safety of the child, the formulation is impermissibly changed by the proposed regulation by looking only at the home on an objective basis, but not including the subjective needs of each child who may be affected. When that child is known and identified, as he or she would be in the case of a relative care home, the inquiry needs to be individualized as to that child's best interests. Thus, the Division should amend the proposed regulation to reflect the express intent of the statute.

RESPONSE: The Department agrees and has changed the rule on adoption at N.J.A.C. 10:122C-2.6(f) to indicate that substantiated child abuse or neglect shall constitute grounds for action to remove the license at the discretion of the Office of Licensing after considering information provided by the Department and contract agency, as applicable. The rule as adopted indicates that the Office of Licensing may issue or continue the license if the resource family parent's or applicant's continued service poses no continuing risk of harm to any child residing in the home and the issuance or continuation of the license is in the best interests of a specific child who is or will be placed in the home. The change on adoption from "if the resource family parent's or applicant's continued service would place any child at risk" to "if the resource family parent's or applicant's continued service poses no continuing risk of harm to any child residing in the home and the issuance or continuation of the license is in the best interests of a specific child who is or will be placed in the home" more accurately reflects the statutory language cited by the commenter.

51. COMMENT: The commenter expressed concerns about provisions at N.J.A.C. 10:122C-3.1 regarding children's rights and N.J.A.C. 10:122C-6.2 regarding visitation and communication. At N.J.A.C. 10:122C-3.1(a)2viii, the rule requires that children have unimpeded communication with the Department office or contract agency having supervision of the child. The commenter would propose that the language be added to include the child's right to have unimpeded communication with his/her law guardian or law guardian investigator as well.

In addition, N.J.A.C. 10:122C-6.2(b)2 requires resource families to provide each child with access to a telephone to contact the child's caseworker. Likewise, the commenter would propose language to permit the same access to a telephone to contact the child's law guardian or law guardian investigator.

Finally, N.J.A.C. 10:122C-6.2(f) requires resource families to permit a child in placement to visit with his or her Division or contract agency caseworker upon request. This same access should be afforded to children visiting with their attorneys. Therefore, the commenter would propose language that would extend this contact to the child's law guardian or law guardian investigator.

RESPONSE: The Department agrees and has changed the rules on adoption at N.J.A.C. 10:122C-3.1(a)2, 6.2(b)2 and 6.2(f) to include provisions for unimpeded access to the child's law guardian or law guardian investigator in the rules regarding children's rights, visitation and communication.

52. COMMENT: The commenter expressed concerns about provisions at N.J.A.C. 10:122C-4.2 regarding bedroom requirements. This section of the rules would lend itself to a different, less stringent requirement applicable only to relative or family friend caregivers. More specifically, the issue of sufficient square footage for related children, especially sufficient bedroom capacity, is perhaps the most frequently confronted housing problem in placing children with family members. While sufficient space and privacy concerns are undeniably important, placing these needs as paramount without regard to the less tangible emotional needs of individual children to be placed in relative care simply ignores the real need of children, and will result in placement decisions that make children less safe and secure.

The commenter recommended redrafting the proposed licensing requirements for relative care so that the ultimate value and result in placement decisions focuses on the dual needs of children to be both safe and secure, and to be with family who know and love them when that option is available.

RESPONSE: N.J.A.C. 10:122C-4.2(b), which specifies square footage and other bedroom requirements, are level II requirements, not level I requirements. As such, they may be waived for homes providing relative care, subject to the conditions specified at N.J.A.C. 10:122C-2.2(b).

53. COMMENT: The commenter expressed concerns about provisions at N.J.A.C. 10:122C-7 regarding health requirements. While this section generally appears to provide for needed medical care and the health of children in placement, a major omission is the lack of any provision whatsoever with respect to sexual health education and prevention. This is an important aspect of health among pre-teens and teenagers in placements. Adolescents in placement should have access to needed information and professionals to assist them with difficult situations which may arise. Unwanted pregnancies, sexually transmitted diseases, including exposure to HIV infection, are prevention needs that warrant attention when the issues of health care for children in placement are discussed. The commenter suggested that the Office of

Licensing consult an appropriate expert in this area to assist in formulating a rule proposal addressing this serious health need of children in placement.

RESPONSE: The Department has already responded to these concerns in the Response to Comment 27.

**Summary** of Agency-Initiated Changes:

1. Technical changes have been made on adoption to clarify the intent of the rules, improve consistency within the rules and correct punctuation. While substantive in nature, the changes are not so substantive as to require re-proposal.

2. A technical change has been made on adoption at N.J.A.C. 10:122C-1.5(c) to clarify the rules concerning compliance with level I and level II requirements. The proposed rule authorized the Office of Licensing to cite a level I violation for noncompliance with one or more level II violations by a resource family parent, if the violations are not abated by the next licensing inspection. The rule is being changed to indicate that the next inspection may be either an annual inspection or a renewal inspection (conducted every three years).

3. Substantive changes have been made on adoption at N.J.A.C. 10:122C-2.1(e)2 and 5.5(b)1 to improve consistency in the rules regarding resource family homes with a history of substantiated child abuse or neglect. While such homes will generally be disqualified from licensure, exceptions were proposed at N.J.A.C. 10:122C-2.1(e)2 to permit placement of a child in such a home prior to licensure (for relatives and family friends), and at N.J.A.C. 10:122C-5.5(b)1 to permit placement subsequent to licensure. The proposed criteria for these exceptions was different for homes pre- and post-licensure. In particular, proposed N.J.A.C. 10:122C-2.1(e)2 did not contain the language at proposed N.J.A.C. 10:122C-5.5(b)1 excluding homes in which a person has put a child at risk of serious injury or harm. Conversely, proposed N.J.A.C. 10:122C-5.5(b)1 did not match the language at proposed N.J.A.C. 10:122C-2.1(e)2 excluding homes in which a person has caused serious injury, harm or death to a child through child abuse or neglect.

The text has been changed on adoption to use the same language in both rules, so that the exceptions are consistent for placements that occur in homes pre- and post-licensure. The text for both pre-license and post-license placements will prohibit placement if an adult residing in the home has been responsible for an incident of sexual abuse of a child or an incident of child abuse or neglect that caused serious injury or harm to a child, or has caused death to a child through abuse or neglect, or has put a child at risk of serious injury or harm. The changes on adoption are intended to promote children's safety by ensuring that risk of serious injury or harm, in addition to actual serious injury or harm, will disqualify a home from pre-license placement. The changes are also intended to minimize disruption of a child's placement by ensuring that the criteria for pre-license placement in a home with a history of child abuse or neglect are the same as the criteria used in the subsequent licensure decision.

4. A technical change has been made on adoption to clarify the rule at N.J.A.C. 10:122C-2.4(g) regarding reinstatement of a suspended license. The proposed rule required the Office of Licensing to reinstate the license once the resource family parent achieved compliance with the applicable provisions of this chapter. Although the rule has always required the resource family parent to demonstrate that he or she has achieved compliance, the change is intended to clarify that the burden of proof is on the resource family parent to demonstrate compliance, rather than obligating the Office of Licensing to reinstate the license without a demonstration of compliance.

5. A substantive change has been made on adoption to clarify the rule at N.J.A.C. 10:122C-2.5(b) regarding continued operation of a home whose license has been suspended or revoked. The proposed rule authorized the Office of Licensing to permit such a home to operate pending a hearing if the Department determines that children are not at risk and no imminent hazard exists. The proposed rule applied to license suspensions and revocations, but did not mention homes whose license has been refused for renewal. The Department intends the rule to apply to those homes as well. The rule has been changed on adoption to apply to homes whose license has been suspended, revoked or refused for renewal.

6. A technical change has been made on adoption at N.J.A.C. 10:122C-5.2(c)4 regarding personal references. The rule has been changed on adoption by replacing the phrase "provide the same personal reference" with the synonymous phrase "obtain the same personal references from outside the household." Although the Office of Licensing has never permitted household members to provide references for each other, the change is being made to clarify this potential misunderstanding.

7. Substantive changes have been made on adoption to clarify N.J.A.C. 10:122C-5.7(c)1 and 2 regarding employment by resource family parents providing SHSP foster care. The proposed paragraphs placed limits on the hours of employment, regardless of whether the medically fragile child is present in the home during the resource family parent's

work hours. The Department intended the paragraph to ensure that the child has sufficient supervision when present in the home. The paragraph has been changed on adoption to indicate that the employment limits apply to times when a medically fragile child in placement is present in the home. For example, a resource family parent may exceed the limits on hours of employment if the medically fragile child is attending school during the resource family parent's work hours.

8. A technical change has been made on adoption at N.J.A.C. 10:122C-6.3(d)1 to refer to a family child care home, rather than a family day care home, in order to be consistent with terminology at N.J.A.C. 10:126.

9. Substantive changes have been made on adoption at N.J.A.C. 10:122C-7.1(a)7 to clarify the requirements for dental examinations for children in placement. The proposed rule required a dental examination for each child who has begun to develop teeth, but did not require one for older children whose teeth are already developed. The proposed rule also failed to specify who must perform the examination, and failed to specify differential provisions for children of different ages. The Department intended the rule to ensure that the dental health of children in placement is evaluated when needed. The rule has been changed on adoption to indicate the Department's intent more clearly. Children who have begun to develop teeth will be required to receive a dental assessment by a physician or dentist, rather than a dental examination as in the proposed rules. Children three years of age or older will be required to receive a dental examination by a dentist. These rule changes are intended to enable very young children who have begun to develop teeth to be assessed by a physician, who is likely to be familiar with the child's medical history and able to determine whether referral to a dentist is needed. A dental examination by a dentist before three years of age is usually unnecessary, since the teeth are not yet fully developed.

### **Federal Standards Statement**

The adopted repeal and new rules do not exceed standards or requirements imposed by Federal law. The adoption is part of the Department's plan to improve the child welfare system and to comply with the Federal Adoption and Safe Families Act of 1997 (P.L. 105-89), the New Jersey Adoption and Safe Families Act (P.L. 1999, c. 53) and the Federal statutes and rules at 42 U.S.C. § 670 et seq. and 45 CFR 1356.

**Full text** of the adopted new rules follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

## CHAPTER 122C

### MANUAL OF REQUIREMENTS FOR RESOURCE FAMILY PARENTS

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10:122C-1.1 Legal authority

(a) This chapter is promulgated pursuant to the Resource Family Parent Licensing Act, N.J.S.A. 30:4C-27.3 et seq., N.J.S.A. 30:4C-4(h) and N.J.S.A. 30:4C-26a.

(b) A person shall not provide resource family care to a child in placement unless the person is licensed by the Department.

(c) In order to be licensed, a person shall demonstrate to the satisfaction of the Department of Human Services that he or she complies with all applicable provisions of this chapter.

##### 10:122C-1.2 Scope

(a) A resource family parent who is subject to the provisions of this chapter shall include any person with whom a child in the care, custody or guardianship of the Division of Youth and Family Services is placed for resource family care, and any person with whom a child is placed by the Division for the purpose of adoption until said adoption is finalized.

(b) The resource family parent shall secure approval from the Department, or from an agency under contract with the Department, to provide one or more of the following services:

1. Regular foster care, in which care is provided for a child in need of temporary out-of-home placement for protective or other social services reasons;
2. Special Home Service Provider foster care, in which care is provided for a child who is medically fragile and in need of out-of-home placement;
3. Emergency foster care, in which care is provided for a child in need of temporary out-of-home placement on an emergency basis for protective services reasons and/or a disruption of a previous placement;
4. Fost/adopt care, in which the resource family parent has agreed to foster or adopt a child, in keeping with the child's case goal;
5. Contract agency home care, which is directly supervised by a private agency under contract with the Department to provide services to children in need of out-of-home placement for protective or other social services reasons;
6. Relative care, in which the resource family parent is not a parent of the child in placement but is related to the child through blood, marriage or adoption;
7. Family friend care, in which the resource family parent is not a parent of the child in placement and is not related to the child through blood, marriage or adoption, but is connected to the child and/or the child's parent by an established positive psychological or emotional relationship; and
8. Adoptive care, in which care is provided for a child placed by the Division of Youth and Family Services for the purpose of adoption by the resource family parent until said adoption is finalized.

(c) The provisions of this chapter shall not apply to a person who:

1. Operates a home that is licensed, approved or regulated pursuant to State law exclusively by the State Department of Health and Senior Services, the State Department of Education, the State Department of Corrections or any other New Jersey State agency;
2. Provides care exclusively for children under the auspices of the Division of Developmental Disabilities or the Division of Mental Health Services, both of the Department of Human Services; or
3. Operates a children's group home, treatment home, teaching family home, alternative care home, supervised transitional living home or shelter home that provides room, board, care, shelter or treatment services for children on a 24-hour-a-day basis.

#### 10:122C-1.3 Definitions

(a) The definitions in N.J.A.C. 10:122B are hereby incorporated into this chapter by reference.

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

"Case plan" means a specific plan developed for a child receiving services from the Department or another agency which defines and guides case activities to maintain or achieve an appropriate permanency goal.

"Caseworker" means a representative of the Department of Human Services office or contract agency having supervision of a child in placement.

"Chapter" means the rules contained in the Manual of Requirements for Resource Family Parents, N.J.A.C. 10:122C. These provisions constitute minimum baseline requirements below which no home that is subject to the authority of N.J.S.A. 30:4C-27.3 et seq., N.J.S.A. 30:1-14 and N.J.S.A. 30:4C-4 is legally permitted to operate.

"Child in placement" means a child under the auspices of the Department who is placed in a resource family home because he or she cannot live with his or her own family due to neglect, abuse or other circumstances, or who is placed for the purpose of adoption, and who is either under 18 years of age or who meets the criteria set forth in N.J.S.A. 9:17B-2(f).

"Contract agency" means a private agency under contract with the Department to provide services to children under the auspices of the Department who are in need of placement in a resource family home.

"Corporal punishment" means any type of physical punishment.

"Denial of a license" means the withholding by the Office of Licensing of an initial license for which the resource family parent applicant has applied.

"Department" means the New Jersey Department of Human Services.

"Division" means the Division of Youth and Family Services, New Jersey Department of Human Services.

"Household member" means a person residing in the resource family home other than a resource family parent, resource family parent applicant, or child in placement. Household members shall include boarders and frequent overnight guests in the resource family home.

"Level I requirement" means a licensing requirement, as set forth in this chapter\*,\* with which a resource family parent or resource family parent applicant must be in full compliance to receive or maintain a license. Level I requirements impact the safety, health and rights of children in placement.

"Level II requirement" means a licensing requirement, as set forth in this chapter\*,\* other than a level I requirement, with which a resource family parent or resource family parent applicant must be in substantial compliance to receive or maintain a license. All requirements other than level I requirements are level II requirements.

"License" means a document issued by the Office of Licensing to a person at an approved location who complies with the applicable provisions of this chapter.

"Medically fragile child" means a child who is between the ages of birth and three years and exhibits functional limitations identified in terms of moderate to marked developmental delay and psychosocial elements requiring nursing care over and above routine nursing baby care; or is over three years of age and limited in terms of specific age-appropriate physical and mental activities, activities of daily living or abnormal behavior, as demonstrated by performance at home, social or recreational activities.

"Office of Licensing" or "Office" means the Office of Licensing in the New Jersey Department of Human Services.

"Parent" means a birth parent, stepparent, adoptive parent, legal guardian, or any other person having legal custody of a child.

"Psychotropic medication" means those substances which exert a direct effect upon the central nervous system and which are utilized as a part of a treatment plan to influence and modify behavior in a positive manner.

"Refusal to renew a license" means a determination by the Office of Licensing not to issue a license to a resource family parent after his or her existing license has expired.

"Resource family" means all persons living with a resource family parent or applicant.

"Resource family home" or "home" means a private residence, other than a children's group home, treatment home, teaching family home, alternative care home, or shelter home, in which board, lodging, care and temporary out-of-home placement services are provided by a resource family parent on a 24-hour basis to a child under the auspices of the Divi-

sion of Youth and Family Services, including a home approved by the Division of Youth and Family Services for the placement of a child for the purpose of adoption.

"Resource family parent" means a person who is licensed by the Department to provide resource family care, including a person who is licensed to have a child or children placed with him or her for the purpose of adoption.

"Resource family parent applicant" or "applicant" means a person who has applied for a resource family parent license.

"Restrictive behavior management" means the use of physical or mechanical restraint, or exclusion of a child from normal interactions with others, to control or modify the child's behavior. Restrictive behavior management shall not include briefly intervening without undue force in order to calm a child, or holding a child's hand to safely escort the child from one area to another.

"Revocation of a license" means a permanent removal of a resource family parent's license to operate a resource family home.

"Substantial compliance" means compliance by a resource family parent or applicant who does not meet all applicable requirements of the law and of this chapter, when there is no serious or imminent hazard to the health, safety, well-being or rights of the children served, and the resource family parent or applicant is in full compliance with level I requirements.

"Suspension of a license" means a temporary removal of a resource family parent's license to operate a resource family home.

"Temporary caregiver" means a person who provides supervision to a child in placement on behalf of the resource family parent for more than three consecutive days.

#### 10:122C-1.4 Capacity

(a) Level I capacity requirements are as follows:

1. For children placed on or after \*[(the effective date of these rules)]\* **February 6, 2006**, the resource family parent shall comply with the following capacity limits on the number of children residing in the home:

i. No more than four children in placement;

ii. No more than six children in total, including children in placement and all other children residing in the home;

iii. No more than four children in total below six years of age, including children in placement and all other children residing in the home;

iv. No more than two children in total below two years of age, including children in placement and all other children residing in the home; and

v. No more than two non-ambulatory children in total, including children in placement and all other children residing in the home.

\*[2. In lieu of (a)li and ii above, a resource family parent providing Special Home Service Provider (SHSP) foster care shall comply with the SHSP capacity limits specified in N.J.A.C. 10:122C-5.7(b)4.]\*

\*[3.]\* **\*2.\*** The resource family parent shall comply with the capacity limits determined by the Department for the specific home.

(b) The Department may license a resource family home for more than the capacity limits specified in (a)1 \*[and 2]\* above if necessary to keep sibling groups intact or to serve the best interests of the children who are or may be placed in the home.

(c) The Department may license a resource family home for less than the capacity limits specified in (a)1 \*[and 2]\* above, may reduce a home's licensed capacity after the license has been issued, and may restrict a home to serve only a specific child or children, if necessary to serve the best interests of the children who are or may be placed in the home.

#### 10:122C-1.5 Compliance with level I and level II requirements

(a) In order to receive and maintain an initial or renewal license, the resource family parent or applicant shall be:

1. In full compliance with all applicable level I requirements; and
2. In full or substantial compliance with all applicable level II requirements.

(b) If the resource family parent or resource family parent applicant is found by the Office of Licensing to be in violation of one or more level I requirements, the resource family parent or applicant shall abate the violations within 30 days, or sooner if specified in the violation notice.

(c) If the resource family parent is found by the Office of Licensing to be in violation of one or more level II requirements, the resource family parent shall abate the violations by the date specified in the violation notice. If the violations are not abated by the next \*[licensing]\* **\*annual or renewal\*** inspection, the Office of Licensing may cite a level I violation for the noncompliance.

#### 10:122C-1.6 Nondiscrimination

Neither the Department nor a contract agency shall discriminate with regard to the application or licensure of a resource family parent on the basis of race, color, national origin, age, disability, gender, religion, sexual orientation, parental status, birth status or marital status.

### SUBCHAPTER 2. LICENSING PROCEDURES

#### 10:122C-2.1 Application for a license

(a) An applicant for an initial license shall submit a completed application to the Department or contract agency.

(b) An applicant for an initial license shall be:

1. At least 18 years of age; and
2. A resident of the State of New Jersey.

(c) If there is more than one resource family parent applicant in the household, the applicants shall submit a single application for a single license.

1. Each applicant shall meet all requirements for licensure.
2. When a couple lives together, both partners shall be considered to be resource family parents who shall meet the requirements contained in this chapter.

(d) The applicant shall cooperate with the Department or contract agency in the completion of all components of the application and home study process within the time limits established by the Department. The components of the application and home study process for an initial license shall include:



1. Inspection of the resource family home and surrounding area by the Office of Licensing, Division or contract agency, as specified in N.J.A.C. 10:122C-5.3;

2. Interviews with each resource family parent, child and other household member, unless completed within the previous 80 days, by the Office of Licensing, Division or contract agency, as specified in N.J.A.C. 10:122C-5.3;

3. Completion of a home study by the Department or contract agency, as specified in N.J.A.C. 10:122C-5.3;

4. Completion of pre-service training, as specified in N.J.A.C. 10:122C-5.6; and

5. Completion and submission by the applicant of the following:

i. A Resource Family Parent License Application;

ii. A Resource Family Home Study Application;

iii. A Background Check Consent Form for each applicant and household member 18 years of age or older, each new adult household member and each child who reaches 18 years of age;

iv. Medical, personal, employment, school/day care, and child care references, as specified in N.J.A.C. 10:122C-5.2;

v. Consent for release of information;

vi. Information necessary for a State and Federal Criminal History Record Information fingerprint background check pursuant to N.J.S.A. 30:4C-26.8 for each applicant and household member 18 years of age or older, each new adult household member and each child who reaches 18 years of age, as specified in N.J.A.C. 10:122C-5.4;

vii. Information necessary for a Child Abuse Record Information background check for each applicant and household member 18 years of age or older, each new adult household member and each child who reaches 18 years of age, as specified in N.J.A.C. 10:122C-5.5;

viii. Disclosure of any convictions for crimes or disorderly persons offenses for each applicant and each household member 14 years of age or older;

ix. A Resource Family Care Agreement, which includes the applicant's agreement to attend to the child's health and dental care and to provide services as reflected in the Agreement and as appropriate to each child placed in the home;

x. An agreement not to use unacceptable methods of discipline, including corporal punishment, hitting and shaking, abusive language, ridicule, humiliation, other forms of degradation, deprivation of meals or sleep, forcing a child to do strenuous physical work or exercise, denying the child communication or mail, removing or threatening to remove the child from the home, denying or threatening to deny family visits, or denying the child access to needed treatment services or medication; and

xi. A statement of financial resources.

(e) An applicant seeking to provide relative care or family friend care, as specified in N.J.A.C. 10:122C-1.2(b)6 and 7, may be approved by the Division or contract agency to care for a child prior to the issuance of a license, provided that all of the following conditions are met:

1. A life/safety inspection of the home by the Division or contract agency reveals no health, safety or fire hazards in **\*the physical facility of\*** the home **\*[or surrounding area]\* **\*and the premises where the home is located\*****;

2. A check of the Division's records of child abuse and neglect reveals that no adult residing in the home has been responsible for an incident of sexual abuse of a child or an incident of child abuse or neglect that caused serious injury or

harm to a child, or has caused death to a child through abuse or neglect\*, **or has put a child at risk of serious injury or harm\***;

3. A check of court records (known as a PROMIS/GAVEL check) reveals that no person residing in the home has been convicted of a crime specified in N.J.S.A. 30:4C-26.8; and

4. The applicant submits a Resource Family Parent License Application within five days following the placement of a child in the home. If the application is denied, the Division shall identify an appropriate alternative placement for the child.

#### 10:122C-2.2 Issuance of a license

(a) The Office of Licensing shall issue a license to an applicant who has achieved full compliance with all applicable level I requirements and substantial or full compliance with all applicable level II requirements.

(b) The Office of Licensing may grant a waiver of a level II requirement for a resource family parent or applicant providing relative care, as specified in N.J.A.C. 10:122C-1.2(b)6\*[, upon consideration of the type or degree of hardship that would result to the resource family parent or applicant if a waiver were not granted]\*.

**\*1. Requests for waivers shall be made to the Office of Licensing in writing by the Division or contract agency, with supporting information justifying the request.\***

\*[1.]\* **\*2.\*** Waivers shall be \*[granted]\* **\*considered\*** on a case-by-case basis, only for non-safety standards for a specific child or children in placement. For the purpose of determining whether a waiver will be granted, level II requirements shall be considered non-safety standards.

**\*3. A waiver may be granted at the discretion of the Office of Licensing upon consideration of the following criteria:**

**i. The type or degree of hardship that would result to the resource family parent or applicant if the waiver were not granted;**

**ii. The negative impact on a specific child or children in placement if the waiver were not granted; and**

**iii. Whether the waiver, if granted, would adversely affect the health, safety, well-being or rights of any child residing in the resource family home.\***

\*[2.]\* **\*4.\*** The Office of Licensing shall determine the terms and conditions for granting each specific waiver.

\*[3.]\* **\*5.\*** If a waiver is granted, the resource family parent or applicant shall comply with the terms and conditions of the waiver.

(c) The Office of Licensing shall notify the applicant and the appropriate Division office or contract agency of the decision on licensure and the decision on waivers, if applicable.

(d) If the Office of Licensing determines that the applicant is in full compliance with all applicable level I requirements and in substantial compliance with, but does not meet all, applicable level II requirements, and there is no serious or imminent hazard to the rights, education, health, safety, well-being or treatment needs of a child who is or may be placed in the home, the Office shall issue a license to the applicant and indicate in writing the steps the applicant must take to correct the areas not in compliance.

(e) If a license cannot be issued because there is a serious or imminent hazard to the rights, education, health, safety, well-being or treatment needs of a child who is or may be placed in the home, the Office of Licensing shall provide written notification to the applicant indicating the steps, if any, the applicant must take to secure a license.

(f) The license shall apply to the resource family parent at the home in which the resource family resides at the time of the application.

1. No more than one license shall be issued to a single residence.
2. The license shall be issued to one or more specific persons for a specific residence.
3. The license shall not be transferable, except as specified in (g) below.

(g) If the resource family changes residence, the Office of Licensing shall inspect the new residence to determine whether it is in compliance with the applicable provisions of this chapter. The resource family parent shall provide notice of a change of residence at least 30 days in advance of the move.

(h) Each licensing period shall be three years.

1. In determining the expiration date of the license, the Office of Licensing shall compute the three-year licensing period from the date of issuance of the first license.

2. In determining the expiration date of a renewed license, the Office of Licensing shall compute the three-year licensing period from the date on which the previous license expired. If, however, the home has ceased to operate for a period of one year or more following the expiration date of its previous license, the Office shall compute the date of the expiration from the date of issuance of a new license.

(i) The resource family parent shall maintain the license on file at the home.

(j) The resource family parent or applicant shall not make claims either in advertising or in any written or verbal announcement or presentation contrary to the licensing status of the resource family parent or applicant.

#### 10:122C-2.3 Renewal of a license

(a) A resource family parent seeking renewal of a license shall submit a completed Resource Family Parent License Application form to the Office of Licensing at least 45 calendar days prior to the expiration of the existing license.

(b) The Office of Licensing shall issue a renewal license to a resource family parent who is in full compliance with all level I requirements and substantial or full compliance with level II requirements.

(c) For license renewal, the resource family parent shall:

1. Permit and participate in an inspection by the Office of Licensing, as specified in N.J.A.C. 10:122C-5.3(b);
2. Submit a medical reference, as specified in N.J.A.C. 10:122C-5.2(b), for each resource family parent and household member\*, **based on the physician's examination of the individual within 12 months of the date of completion of the medical reference\***;
3. Submit information necessary for a State and Federal Criminal History Record Information fingerprint background check pursuant to N.J.S.A. 30:4C-26.8 for each applicant and household member 18 years of age or older, each new adult household member and each child who reaches 18 years of age, as specified in N.J.A.C. 10:122C-5.4; and
4. Submit information necessary for a Child Abuse Record Information background check for each resource family parent and household member 18 years of age or older, each new adult household member and each child who reaches 18 years of age, as specified in N.J.A.C. 10:122C-5.5.

#### 10:122C-2.4 Denying, suspending, revoking or refusing to renew a license

(a) The Office of Licensing shall deny an application or suspend, revoke or refuse to renew a license, as applicable, if the applicant, resource family parent or any household member at least 18 years of age has been convicted of a crime or offense specified in N.J.S.A. 30:4C-26.8.

(b) The Office of Licensing is authorized to deny an application or suspend, revoke or refuse to renew a license for good cause, including, but not limited to, the following:

1. Failure to comply with the provisions of this chapter;
2. Violation of the terms and conditions of a license;
3. Fraud or misrepresentation in obtaining a license;
4. Refusal to furnish the Department with files, reports or records as required by this chapter;
5. Refusal to permit an authorized representative of the Department to gain admission to the home or to conduct an inspection or investigation;
6. A conviction by the applicant, resource family parent or a household member at least 18 years of age for any crime or offense;
7. A determination by the Department that a report of child abuse or neglect by the applicant, resource family parent or a household member has been substantiated;
8. Any conduct, engaged in or permitted, which adversely affects or presents a serious hazard to the education, health, safety, general well-being or physical, emotional and social development of a child, or which otherwise fails to comply with the standards required for the provision of resource family care to a child and the maintenance of a resource family home;
9. Failure to be in full compliance with one or more level I requirements;
10. Failure to be in substantial compliance with one or more level II requirements;
11. Failure to abate outstanding violations of level II requirements by the time of the next licensing inspection; or
12. Failure to comply with the terms and conditions of a waiver granted by the Office of Licensing.

(c) If a resource family parent or applicant fails to comply with the applicable provisions of this chapter, the Office of Licensing shall issue a directive ordering compliance.

(d) Before the decision to deny an application or suspend, revoke or refuse to renew a license becomes effective, the resource family parent or applicant shall have the opportunity to request a hearing to contest the action, as specified in N.J.A.C. 10:122C-2.5(a).

(e) A previous denial of an application or suspension, revocation or refusal to renew a license shall not in itself result in an automatic disqualification of the resource family parent or applicant to secure a license, but shall constitute grounds for the Department to investigate the circumstances that led to the original negative action and to make a determination as to whether to reject or process the new application for a license.

(f) If the Office of Licensing denies an application, or revokes or refuses to renew a license, as specified in (a) and (b) above, the former resource family parent or applicant shall be prohibited from reapplying for a license for one year from the date of the denial, revocation or refusal to renew the license. After the one-year period has elapsed, the former resource family parent or applicant may submit to the Department or contract agency a new application for a license, if he or she believes that the condition that led the Office to deny the application or revoke or refuse to renew the license is no longer applicable.

(g) If a license is suspended, the Office of Licensing shall issue or reinstate the license once the resource family parent **\*[achieves]\* \*demonstrates that he or she has achieved\*** compliance with the applicable provisions of this chapter. In such a case, the Office shall not require the resource family parent to submit a new application for a license unless reapplication is expressly made a condition of the issuance or reinstatement of the license.

(h) Each license issued by the Office of Licensing to a resource family parent remains the property of the State of New Jersey. If the Department suspends or revokes a license, the resource family parent shall return the license to the Department immediately.

#### 10:122C-2.5 Administrative hearings

(a) Before denying, suspending, revoking or refusing to renew a license, the Office of Licensing shall give written notice to the resource family parent or applicant personally, or by mail to the last known address of the resource family parent or applicant with return receipt requested. The notice shall:

1. State the reason for the action; and

2. Afford the resource family parent or applicant the opportunity to request a hearing to contest the action, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the Department determines that children are not at risk and that no imminent hazard exists, the Office of Licensing may permit a resource family parent **\*whose license has been suspended, revoked or refused for renewal, and\*** who has requested a hearing, as specified in (a) above, to continue to operate the resource family home until a final decision is rendered as a result of the hearing.

#### 10:122C-2.6 Complaints

(a) Whenever the Office of Licensing receives a report questioning the licensing status or compliance of a resource family parent or applicant or alleging a violation of the requirements specified in this chapter, the Office shall ensure that the allegation is promptly investigated to determine whether the complaint is confirmed.

(b) Upon completion of the complaint investigation, the Department shall notify the resource family parent or applicant and the Division office or contract agency that has supervision of the resource family home in writing of the results of the investigation, with the exception of any information not permitted to be disclosed pursuant to the Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a, or any other State or Federal law.

(c) Whenever the Department conducts a complaint investigation, the resource family parent or applicant shall cooperate with all Department investigators.

(d) The Department, during the course of investigating a report of child abuse and neglect, may determine that immediate corrective action is necessary to protect a child whenever:

1. A resource family parent, applicant or household member has been found by the Department to have harmed or to pose a risk of harm to a child;

2. A resource family parent, applicant or household member has committed an act of child abuse or neglect, as substantiated by the Department; or

3. A resource family parent, applicant or household member has been convicted of such acts.

(e) When the Department makes a determination that immediate remedial action and/or long-term corrective action is necessary, such action may include temporary or permanent closure of the resource family home.

(f) Substantiation by the Department of a child abuse or neglect report shall not in itself automatically result in the denial, suspension or revocation of or refusal to renew a license, but shall constitute grounds for such action \*[if the resource family parent's or applicant's continued service would place any child at risk. The]\* **\*at the discretion of the\* Office of Licensing** \*[shall make such a determination]\* after considering information provided by the Department. **\*The Office of Licensing may issue or continue the license if the resource family parent's or applicant's continued service poses no continuing risk of harm to any child residing in the home and the issuance or continuation of the license is in the best interests of a specific child who is or will be placed in the home.\***

### SUBCHAPTER 3. ADMINISTRATION

#### 10:122C-3.1 Rights of children in placement

(a) Level I children's rights requirements are as follows:

1. The resource family parent shall ensure that each child in placement is accorded the rights specified in the Child Placement Bill of Rights Act, as specified in N.J.S.A. 9:6B-1 et seq.
2. The resource family parent shall ensure the rights of each child in placement to:
  - i. Receive medical treatment as needed on a routine or emergency basis;
  - ii. Have access to an appropriate education;
  - iii. Live in a safe, clean and healthy home;
  - iv. Be free of physical and sexual harassment and abuse, corporal punishment or threat thereof;
  - v. Be free of emotional maltreatment;
  - vi. Attend religious services chosen by the child's parent;
  - vii. Participate as a family member in the home; and
  - viii. Have unimpeded communication with the Department office or contract agency having supervision of the child\*, **and with the child's law guardian or law guardian investigator\***.

#### 10:122C-3.2 Records kept by a resource family parent

(a) The resource family parent shall maintain on file in the home the following information about each child in placement:

1. The child's full name, nicknames, if any, gender, date of birth, religion and race;
2. The name, address, and telephone number of the Division or contract agency caseworker and supervisor;
3. The name, address, and telephone number of the caseworker or other person to be notified in an emergency involving a child in placement;
4. A Medicaid, health insurance or managed health care identification card, if applicable; and
5. A medication log if the child receives psychotropic medication, as specified in N.J.A.C. 10:122C-7.4(b).

(b) In addition to (a) above, the resource family parent, in conjunction with the caseworker, shall maintain on file in the home the following information about each child in placement when appropriate and applicable:

1. Schools attended and grade level; and
2. The child's medical history, including documentation of initial and annual physical examinations, chronic conditions, past serious illnesses, allergies, medications, immunizations and special dietary needs.

(c) The resource family parent shall maintain on file the following records:

1. A copy of the resource family parent's vehicle insurance policy, if applicable;
2. A copy of the Manual of Requirements for Resource Family Parents; and
3. The telephone number for the Department's State Central Registry for reporting allegations of child abuse or neglect, currently 1-877-NJ-ABUSE (877-652-2873).

(d) The Department may, without prior notice, inspect and examine a resource family home and inspect all documents, records, files or other data required to be maintained by a resource family parent pursuant to the Resource Family Licensing Act.

#### 10:122C-3.3 Confidentiality of records

(a) Licensing files maintained by the Office of Licensing shall be confidential to protect the safety and welfare of the children and resource family parents and shall not be part of the public record, in keeping with the Open Public Records Act, P.L. 2001, c. 404, and other applicable statutes and rules. The Department may issue statistical reports depicting resource family home licensing activity that are part of the public record, but such reports shall not contain any identifying information on any individual child or resource family home.

(b) The resource family parent shall be bound by the same standards of confidentiality regarding a child in placement, and the child's family, as the Department and its employees. These standards shall include, but are not limited to, the following:

1. The resource family parent shall not permit a child in placement to appear in any media publication or report without the express consent of the birth/legal parent or Department representative.
2. The resource family parent or household member shall not discuss any confidential information about the child in placement with a friend, neighbor, non-household member or other individual who is not involved with the child's care, education or treatment.

#### 10:122C-3.4 Reporting requirements

(a) The resource family parent shall immediately verbally notify the State Central Registry whenever there is reasonable cause to believe that a child has been or is being abused or neglected, as required by N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14. Copies of the law and information about it are available upon request from the Division's Community Education Office, PO Box 717 Trenton, NJ 08625-0717.

(b) The resource family parent, or designee if the resource family parent is incapacitated, shall immediately verbally notify the Office of Licensing of the following changes or events after the resource family parent or designee learns of their occurrence, and shall immediately notify the State Central Registry if such changes or events occur after office hours:

1. Injury, accident or illness that results in the admittance of a resource family parent or household member to a hospital;
2. The death of a resource family parent or household member;
3. Any current arrests, criminal convictions or guilty pleas of a resource family parent or household member;

4. Any household member added to the resource family; and
5. Any traumatic event that disrupts the stability of the home.

(c) The resource family parent shall immediately notify the Department office or contract agency having supervision of the child, or the State Central Registry if after office hours, of the following:

1. Injury, accident or illness of a child in placement;
2. The death of a child in placement;
3. A child in placement who has run away or is missing from the home;
4. Temporary or permanent closing of a home; and
5. Any unusual incidents that occurred that might indicate possible abuse or neglect involving a child in placement. Such incidents include but are not limited to: acts of aggression, violent or destructive behavior, suicidal threats or behavior, homicidal threats, inappropriate sexual behavior, running away, withdrawal or passivity, drug or alcohol abuse, or significant changes in the child's behavior or habits.

(d) The resource family parent shall notify the Office of Licensing by telephone of the following changes or events by the next working day:

1. Significant damage to the premises of the home caused by fire, accident or the weather; and
2. Proposed use of space, such as a bedroom, not previously approved by the Office of Licensing for a child in placement.

(e) The resource family parent shall notify the Office of Licensing at least 30 days in advance of relocation to a home not approved by the Office, as specified in N.J.A.C. 10:122C-2.2(g).

(f) The resource family parent shall notify the child's caseworker of vacation plans in which the resource family parent or child in placement will be absent from the home overnight.

#### SUBCHAPTER 4. PHYSICAL FACILITY REQUIREMENTS

##### 10:122C-4.1 Physical facility and maintenance requirements

(a) Level I physical facility requirements are as follows:

1. In order to receive and maintain an initial or renewal license, the resource family home shall be in compliance with all applicable local and State laws, including the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23, and the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70, with respect to occupancy of a dwelling, health and fire safety provisions.
2. The home, land and outdoor area shall be free from hazards to the health, safety or welfare of children.
3. If the home has a swimming pool or a natural bathing area, the resource family parent or applicant shall:
  - i. Maintain a ring buoy with a rope, extension pole or other device that can be used to rescue a swimmer in distress;
  - ii. Meet all applicable local ordinances that apply to a swimming pool or natural bathing area; and



iii. Ensure that an adult approved by the resource family parent or applicant supervises all children while they are in the pool, pool area or natural bathing area.

(b) Level I maintenance requirements are as follows:

1. Rodent or insect infestation shall be controlled if present.

2. All corrosive agents, insecticides, bleaches, polishes, products under pressure in an aerosol can and toxic substances shall be labeled and stored in an area inaccessible to children who are under 10 years of age or whose assessment indicates the need for such protection.

3. \*[All alcoholic]\* **Alcoholic** beverages shall be stored in an area inaccessible to children \*[who are under 10 years of age, or who are known to be at risk of substance abuse]\* **as necessary to ensure the safety of a specific child or children in placement**.\*

4. If the home serves one or more infants or toddlers, the resource family parent or applicant shall ensure the installation of:

i. Safety latches on cabinets and closets containing hazardous or toxic substances;

ii. Safety gates on stairways and landings; and

iii. Protective safety covers on all electrical outlets accessible to children.

5. A telephone shall be in service in the home at all times when a child in placement is present.

6. The resource family parent or applicant shall not use spray coatings containing asbestos on any interior or exterior surfaces of the home or on any equipment used therein, in accordance with rules of the State Department of Environmental Protection, as specified in N.J.A.C. 5:23-8. If the New Jersey Department of Health and Senior Services determines the presence of sprayed-on asbestos-containing materials, and concludes that corrective action must be taken to minimize exposure potential, the resource family parent or applicant shall follow the recommendation of that Department for enclosure, removal or other appropriate action to remove the threat or risk of asbestos contamination.

7. Major appliances shall be plugged directly into electrical outlets. Small appliances may be operated by using an appropriately rated power strip. Extension cords shall not be used to connect appliances to electrical outlets.

8. The resource family parent or applicant shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of the home, and from any furniture, toys, or other equipment used therein, in accordance with the provisions of the State Lead Paint Law, pursuant to N.J.S.A. 24:14A-1 et seq., and with the provisions of the State Sanitary Code, as specified in N.J.A.C. 8:51-7. If the Department determines that lead paint is hazardous to the health, safety and well-being of a child in placement, the resource family parent or applicant shall ensure the removal of the lead paint hazard.

9. Major plumbing, drains, sewer lines and septic systems shall be operable and in good repair.

10. At least one toilet, one wash basin and one bathtub or shower shall be provided in the home and shall be in good working order.

(c) Lighting requirements are as follows:

1. Light switches, electrical junction boxes, fuse boxes, electrical control panels and electrical sockets shall have protective plate covers.

2. During activities in the home, sufficient natural or artificial light shall be provided in all rooms used by a child in placement.

3. Driveways, pedestrian walkways and other exterior portions of the premises subject to use by home occupants at night shall be illuminated to provide safe entrance to and egress from the home.

(d) Heating and ventilation requirements are as follows:

1. A minimum temperature of 65 degrees Fahrenheit (18.5 degrees Celsius) shall be maintained in all rooms used by a child in placement.

2. Crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall have insect screening.

3. All floor or window fans that are accessible to children shall have a grille, screen, mesh or other protective covering designed to prevent a child from coming into contact with the blades of the fan.

4. Ventilation outlets for heating and cooling shall be clean and free from obstructions, and filters shall be replaced when saturated.

(e) Kitchen and bathroom requirements are as follows:

1. Kitchen and cooking equipment shall be kept clean and sanitary.

2. Garbage and food receptacles shall be covered and maintained in a sanitary manner.

3. Toilets, wash basins, bathtubs, showers, kitchen sinks and other plumbing shall be maintained in good operating and sanitary condition.

4. A supply of hot water not less than 120 degrees Fahrenheit (48.8 degrees Celsius) and not more than 140 degrees Fahrenheit (60 degrees Celsius) and cold running water shall be provided in the home.

5. Mirrors, dispensers, and other equipment attached to a wall or furniture shall be fastened securely.

(f) Outdoor maintenance requirements are as follows:

1. All fencing shall be maintained in proper condition.

2. The land, including the outdoor play area, if any, shall be free of standing water.

3. If the home has a swimming pool or a natural bathing area, the water shall be checked to ensure that it is free from bacteria and other contaminants that cause infection or illness.

(g) Additional maintenance requirements are as follows:

1. The home shall be maintained to prevent water leaks, seepage and excessive drafts or heat loss.

2. Floors, walls, ceilings and other surfaces shall be kept clean and in good repair.

3. Paint on interior and exterior surfaces that are accessible to children shall be free of flaking, peeling and chipping.

4. Stairways, balconies, landings, and porches shall have secured handrails and shall be free of hazards such as loose steps, torn carpeting or raised strips.

5. Carpeting shall be secured to the floor.

6. Shelving shall be secured and not overloaded.

7. Materials and furniture for indoor and outdoor use shall be of sturdy and safe construction, clean and free of hazards that may be injurious to children.

(h) The resource family parent or applicant shall ensure that all necessary steps are taken to correct any condition in the indoor or outdoor area that may endanger in any way the health, safety and well-being of a child in placement.

#### 10:122C-4.2 Bedroom requirements

(a) Level I bedroom requirements are as follows:

1. Each bedroom occupied by anyone in the resource family shall have two independent means of exit, at least one of which is an operable window or door suitable for emergency escape or rescue leading directly outside.
2. Each child in placement shall be provided with his or her own bed, bassinet, or crib, as age-appropriate, which is located in a bedroom and kept in a sanitary condition.
3. An unfinished attic or **\*unfinished\*** basement shall not be used for sleeping purposes by anyone in the resource family.

(b) Bedroom space and ventilation requirements are as follows:

1. Each bedroom occupied by a child in placement shall:

- i. Have a minimum ceiling height of seven feet;
- ii. Have natural light and ventilation provided by one or more windows opening directly to the exterior; and
- iii. Provide a minimum of 50 square feet of floor space per occupant, including space that is occupied by furniture, except as specified in (b)2 below.

2. Each bedroom shared by a child in placement and one or more other persons shall provide 50 square feet for the first occupant and the following additional space based on the age of each additional occupant:

- i. For bedrooms occupied only by children, as specified in (d)3 below, 50 square feet for each child over four years of age and 30 square feet for each child four years of age or below; or
- ii. For bedrooms occupied by children and adults, as specified in (d)4 below, 50 square feet for each adult, 50 square feet for each child over four years of age and 30 square feet for each child four years of age or below.

(c) Bedding requirements for children in placement are as follows:

1. Each set of bunk beds shall be limited to two beds in height and shall have railings on the top bunk, if necessary, based on the child's age and risk of falling off the bed.

2. Each bed, bassinet or crib shall be equipped with a firm, sanitary, fire-retardant mattress and waterproof mattress cover.

3. Each bed, bassinet or crib shall be equipped with clean and sanitary bed linens that are changed at least once a week, or more frequently if needed, a blanket or other suitable covering, and a pillow, unless use of a pillow is not advised for safety reasons.

(d) Bedroom privacy requirements are as follows:

1. Each bedroom window shall be equipped with curtains, blinds or shades when necessary to protect the privacy of the child in placement.

2. Each bedroom occupied by a child in placement shall be accessible without walking through a bedroom used by another person, unless approved by the Office of Licensing.
3. Each room used as a bedroom by anyone in the resource family shall not be used for any other purpose.
4. The resource family parent shall not permit a child in placement to sleep in the same room with a child of the opposite sex, when any of the children, including the child in placement, is more than five years of age.
5. The resource family parent shall not permit a child in placement who is 24 months of age or older to share a bedroom with an adult, unless:
  - i. The adult is the child's biological or adoptive mother or father;
  - ii. Medical reasons for the child to share a bedroom with an adult have been documented;
  - iii. The adult is a child in placement or household member who has turned 18 years of age and has been previously sharing the same room with the remaining child in placement in the room for the previous six months or longer; or
  - iv. The bedroom arrangement is due to a temporary situation, such as a vacation.

10:122C-4.3 Emergency evacuation, medical emergencies, and fire prevention

(a) Level I emergency evacuation, medical emergency, and fire safety requirements are as follows:

1. A battery-operated or hard wired smoke detector shall be installed on each floor of the home and operable at all times.
2. All combustible or flammable materials shall be kept at least three feet away from furnaces, boilers, heaters, fireplaces, wood-burning stoves and hot water heaters.
3. Each child in placement shall receive age-appropriate instruction in how to evacuate the home safely in the event of fire or other emergency.
4. Working fireplaces and electric space heaters shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device.
5. When a wood-burning stove is in use, the resource family parent shall ensure that either:
  - i. The stove is protected by a screen or guard; or
  - ii. Age-appropriate supervision is provided at all times when children are present.
6. No portable liquid-fuel-burning heating appliance shall be used in the home.
7. The resource family parent shall maintain the following information near the telephone or other accessible area for use in the event of an emergency:
  - i. The name, address and telephone number of the physician(s) or hospital used by the child in placement;
  - ii. The 911 emergency services telephone number; and
  - iii. The poison control center telephone number.

(b) The resource family parent shall maintain a basic first aid kit or first aid supplies in the home.

(c) In order to receive an initial or renewal license on or after \*[(the effective date of these rules)]\* **February 6, 2006\***, the resource family parent or applicant shall ensure that a carbon monoxide detector is in operation adjacent to each bedroom area if the home contains fuel-burning appliances or has an attached garage used for motor vehicles.

## SUBCHAPTER 5. PERSONAL REQUIREMENTS

### 10:122C-5.1 General personal requirements

(a) Level I general personal requirements are as follows:

1. The resource family parent shall be of good character, as evidenced by the application and home study process as specified in N.J.A.C. 10:122C-2.1, and shall possess skills, attributes and characteristics conducive to and suitable for being a resource family parent and caring effectively for a child in placement.

2. The resource family parent shall be in sufficient physical, mental, and emotional health to perform his or her duties satisfactorily.

i. The resource family parent shall be free of serious contagious diseases that may put a child in placement at risk.

ii. The resource family parent shall refrain from abuse of drugs or alcohol.

3. The resource family parent shall demonstrate reasonable and mature attitudes towards professional figures and institutions, as determined by a review of references and an assessment of the resource family parent's interactions during training and home visits by the Department or other agency.

i. The resource family parent shall cooperate with all activities in the case plan for the child in placement, such as counseling, therapy, court sessions or visits with the child's family.

ii. The resource family parent and each household member shall cooperate in all licensing activities as requested by the Department.

4. The resource family parent shall have sufficient income or other means of financial support so that the resource family parent is economically independent of board subsidy payments from the Department.

i. The resource family parent shall provide the necessities of life for his or her family.

ii. The resource family parent shall use all money received in the name of a child in placement for that child's care.

5. The resource family parent shall be able to provide daily care and supervision for each child in placement, as appropriate to the child's age and needs.

6. The resource family parent shall be able to provide sufficient time and attention to each child in placement without causing other family members' needs to go unmet or overburdening the resource family parent.

### 10:122C-5.2 References

(a) The resource family parent applicant shall submit contact information for the applicable references specified below in order to receive an initial license:

1. A medical reference for each applicant and household member, **\*based on the physician's examination of the individual within six months of the date of completion of the medical reference\***;

2. Three personal references for the applicant(s);

3. An employment reference for each employed applicant;
4. A school or day care reference for each child in the resource family who attends school or day care; and
5. A child care reference for each applicant who has served as a child care provider or as a caregiver for a child placed by another agency.

(b) The medical reference shall meet the following requirements:

1. For each applicant and household member, the applicant shall submit a medical reference from a physician based on the physician's examination of the individual within six months of the date of completion of the medical reference **\*for initial licensure, as specified at (a)1 above, or within 12 months of the date of completion of the medical reference for renewal licensure, as specified at N.J.A.C. 10:122C-2.3(c)2\***.

2. The medical reference source shall provide information needed to assist the Department or contract agency in evaluating the physical and emotional health of the individual. Information in the medical reference shall include, but is not limited to:

- i. Whether the individual is free from serious contagious disease;

- ii. Whether the individual has any conditions or residual effects resulting from a particular disease;

- iii. Whether the individual is in good physical health;

- iv. An immunization history if the individual is below 18 years of age;

- v. To the physician's knowledge, whether the individual is in good emotional health;

- vi. To the physician's knowledge, whether the individual uses any substance, such as tobacco, alcohol or drugs, in a way that affects his or her ability to function;

- vii. Whether the individual should not care for or associate with a child in placement;

- viii. How long the individual has been a patient of the physician; and

- ix. The date of the last physical examination of the individual **\*[within the previous six months]\***.

(c) Each personal reference shall meet the following requirements:

1. All personal reference sources shall be unrelated to the individual who is the subject of the reference, and shall possess knowledge that would allow them to attest to the individual's suitability to care for children.

2. At least one personal reference source shall have known the individual for five years or more.

3. At least one personal reference source shall have been, within the last six months, a neighbor of the individual, or a member of the community in which the individual has lived.

4. Applicants from the same household may **\*[provide]\* \*obtain\*** the same personal reference **\*from outside the household\***, provided that the source has knowledge of each applicant.

5. The personal references shall provide information needed to assist the Department or contract agency in evaluating:

- i. The personal characteristics of each applicant;

- ii. The applicant's experience with children and ability to provide love and security to a child;

- iii. The applicant's affiliation with any cults, groups or organizations that may be incompatible with responsible parenting;
- iv. The applicant's problem behaviors, such as excessive use of alcohol, poor work history, child abuse, drug abuse, violent behavior, poor money management, compulsive gambling, deviant sexual behavior, mental illness, and criminal activities, if any;
- v. The extent to which applicants in a marriage or domestic partnership are a compatible couple with a strong, loving and stable relationship;
- vi. The level of community involvement maintained by the applicant;
- vii. The extent to which the personal reference source would feel comfortable allowing the applicant to care for the source's child permanently; and
- viii. The reliability of observations of the home made by the Department and reports given by the resource family.

(d) The employment reference shall meet the following requirements:

- 1. The employment reference source shall be the applicant's employer. If the applicant states that a current job reference will jeopardize the applicant's employment status, the applicant shall provide a reference from a previous employer.
- 2. If a current or previous employer is not available, the applicant shall provide a reference from an appropriate alternative such as a recent former teacher or the applicant's supervisor in a volunteer activity.
- 3. The employment reference source shall provide information needed to assist the Department or contract agency in evaluating the stability and reliability of the applicant.

(e) The school or day care reference source shall provide information needed to assist the Department or contract agency in evaluating the adjustment of the child in school or day care and the role taken by the applicant in the child's education or care.

(f) The child care reference shall provide information needed to assist the Department or contract agency in evaluating the quality of care given by the applicant as a child care provider or as a caregiver for a child placed in the home by another agency.

(g) For each new household member, the resource family parent or applicant shall submit the applicable references as specified in (a) through (f) above.

#### 10:122C-5.3 Home study

(a) The applicant shall permit and participate in a home study by the Department or contract agency. The completed home study shall include:

1. Identifying information on each applicant including:

- i. Current name and all previous names used including maiden name, if applicable;
- ii. Current address and all previous addresses within the past ten years, if applicable;
- iii. Date of birth;

iv. A visa or United States Immigration and Naturalization Service documentation as evidence of legal residency, if the resource family parent or applicant is not a citizen of the United States;

- v. Current occupation and employer's name and address, if applicable;
  - vi. Race and ethnic background;
  - vii. Social Security number. Pursuant to the Federal Privacy Act of 1974 (P.L. 93-579), the Department or contract agency shall advise each applicant that the disclosure of his or her Social Security number is voluntary;
  - viii. Religion;
  - ix. Education; and
  - x. The names, ages and addresses of the applicant's biological or adopted children currently residing outside of the home;
2. A description of the home and surrounding area, including:
    - i. Each room and indoor area in the home;
    - ii. Each bedroom to be used for a child in placement; and
    - iii. The area outside the home and the neighborhood;
  3. Information about all persons residing in the home, including:
    - i. The names and ages of all children residing in the home, including children placed by the Department or other agency;
    - ii. The names of all adults currently residing in the home, including boarders and frequent overnight guests; and
    - iii. The names of all persons expected to be added to or removed from the resource family;
  4. A description of the age, sex and needs of the child(ren) that the resource family is willing to accept into the home;
  5. A description of the resource family's willingness and aptitude to provide care for a child who is or may be placed in the home, and the applicant's ability to ensure appropriate child care for children in placement on behalf of the applicant;
  6. A description of the applicant's ability and intention to ensure that each child in placement receives physical and mental health care, and to fulfill the applicant's obligations under the Resource Family Care Agreement;
  7. A description of the applicant's capacity and willingness to transport a child in placement;
  8. Verification of each applicant's marriages and divorces, if applicable;
  9. A statement of income and financial resources;
  10. An inspection of the applicant's home by a representative of the Office of Licensing, Division or contract agency, during which each applicant and household member shall be present and available for interview, as necessary;
  11. Identification of a safety plan for firearms and weapons in the home;
  12. A description of the applicant's personal history, family relationships, marital/domestic partner relationship, support system, work, parenting practices and health;



13. A description of any current or previous problem behaviors, alcoholism in the family, alcohol consumption, drug usage, history of molestation for self and family, history of family perpetrator, history of being a perpetrator, spousal abuse, and mental illness; and

14. A psychosocial evaluation of the resource family.

(b) Prior to renewal of the license, the resource family parent shall permit and participate in an inspection by the Office of Licensing, which shall include:

1. An inspection of the resource family home and surrounding area;
2. An in-depth interview with each resource family parent and child in placement, unless completed within the previous 80 days;
3. An interview with each household member, unless completed within the previous 80 days;
4. When appropriate, a description of the attitudes and feelings of the children who currently reside in the home regarding children who are or may be placed in their home; and
5. Relevant information on the home obtained from the Department or contract agency.

(c) The resource family parent shall permit and ensure participation in:

1. An annual inspection of the resource family home by the Division or Office of Licensing to determine whether the resource family home complies with the applicable provisions of this chapter; and
2. An annual interview with each resource family parent, child in placement and household member by the Division, Office of Licensing or contract agency.

#### 10:122C-5.4 Criminal History Record Information background checks

(a) Level I Criminal History Record Information requirements are as follows:

1. As a condition of securing and maintaining a license, the resource family parent or applicant shall ensure that a State and Federal Criminal History Record Information (CHRI) fingerprint background check, in keeping with the New Jersey Adoption and Safe Families Act, P.L. 1999, c. 53, N.J.S.A. 30:4C-26.8, is completed for each resource family parent or applicant, each household member at least 18 years of age, each new household member at least 18 years of age, and each child who reaches 18 years of age.

2. If the resource family parent or applicant or any person specified in (a)1 above refuses to consent to a CHRI fingerprint background check, the Office of Licensing shall deny the application or suspend, revoke or refuse to renew the license, as applicable.

3. If any person specified in (a)1 above has a record of criminal conviction, the Department shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the resource family parent or applicant to receive or maintain a license.

4. A person shall be disqualified from receiving or maintaining an initial or renewal license as a resource family parent if that person or any person specified in (a)1 above ever committed a crime which resulted in a conviction for:

i. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4; or child abuse, neglect, or abandonment pursuant to N.J.S.A. 9:6-3;

ii. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

iii. Aggravated assault which would constitute a crime of the second or third degree pursuant to subsection b. of N.J.S.A. 2C:12-1;

iv. Stalking pursuant to P.L. 1992, c. 209 (N.J.S.A. 2C:12-10);

v. Kidnapping and related offenses including criminal restraint; false imprisonment; interference with custody; criminal coercion; or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.A. 2C:13-1 through 6;

vi. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 4;

vii. Robbery which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

viii. Burglary which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

ix. Domestic violence pursuant to P.L. 1991, c. 261 (N.J.S.A. 2C:25-17 et seq.);

x. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7 or endangering the welfare of an elderly or disabled person pursuant to N.J.S.A. 2C:24-8;

xi. Terrorist threats pursuant to N.J.S.A. 2C:12-3;

xii. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2; or

xiii. An attempt or conspiracy to commit an offense listed in (a)4i through xii above.

5. A person shall be disqualified from receiving or maintaining an initial or renewal license as a resource family parent if that person or any person specified in (a)1 above was convicted of one of the following crimes and the date of release from confinement occurred during the preceding five years:

i. Simple assault pursuant to subsection a. of N.J.S.A. 2C:12-1;

ii. Aggravated assault which would constitute a crime of the fourth degree pursuant to subsection b. of N.J.S.A. 2C:12-1;

iii. A drug-related crime pursuant to P.L. 1987, c. 106 (N.J.S.A. 2C:35-1 et seq.);

iv. Robbery which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:15-1;

v. Burglary which would constitute a crime of the third degree pursuant to N.J.S.A. 2C:18-2; or

vi. An attempt or conspiracy to commit an offense listed in (a)5i through v above.

6. The term "date of release from confinement" in (a)5 above means the date of termination of court-ordered supervision through probation, parole, or residence in a correctional facility, whichever date occurs last.

7. A conviction for one of the offenses enumerated in (a)4 or 5 above shall be determined to have occurred if the person has been convicted under the laws of this State or any other state or jurisdiction for an offense that is substantially equivalent to the offenses enumerated in this subsection.

8. If the Department is notified that any person specified in (a)1 above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to deny, suspend, revoke or refuse to renew the resource family parent's license.

(b) The Department may issue a license to an applicant for a period not to exceed six months, upon completion of the State portion of the CHRI by a person specified in (a)1 above, pending completion and review of the Federal portion of the CHRI, if all of the following conditions have been met:

1. The State portion of the CHRI indicates no information which would disqualify the person;
2. The person who is the subject of the CHRI submits a sworn statement to the Department attesting that the person does not have a record of criminal history which would disqualify the person; and
3. The applicant is in substantial compliance with this chapter and the Department has determined there is no risk to a child's health or safety.

(c) The Department may obtain a criminal history check from the local police department for any resource family parent, applicant, temporary caregiver or household member at least 18 years of age. The applicant or resource family parent shall submit Department-specified release of information forms for a local criminal history check for such an individual when requested by the Department.

#### 10:122C-5.5 Child Abuse Record Information background checks

(a) Level I Child Abuse Record Information requirements are as follows:

1. As a condition of securing and maintaining a license, the resource family parent or applicant shall provide written consent to the Division for a Child Abuse Record Information (CARI) background check from each resource family parent or applicant, each household member at least 18 years of age, each new household member at least 18 years of age, and each child who reaches 18 years of age.
2. If any person specified in (a)1 above refuses to consent to a CARI background check, the Office of Licensing shall deny the application or suspend, revoke or refuse to renew the license, as applicable. The resource family parent or applicant may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:122C-2.4.
3. Upon receipt of written consent from a person specified in (a)1 above, the Division shall conduct a search of its records to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L. 1971, c. 437 (N.J.S.A. 9:6-8.11), against the person. The Department shall consider incidents of child abuse or neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding. The Department may consider substantiated incidents prior to that date if the Department\*,\* in its judgment, determines that the perpetrator poses a risk of harm to a child in a resource family home. In cases involving incidents substantiated prior to June 29, 1995, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation, in accordance with N.J.A.C. 10:120A.

(b) If the Department determines that an incident of child abuse or neglect by any person specified in (a)1 above has been substantiated, the Office of Licensing shall deny the application or suspend, revoke or refuse to renew the license, as applicable; except that the Office may issue a license if all of the following conditions have been met:

1. No person specified in (a) above has \*[caused serious injury or harm to a child, has put a child at risk of serious injury or harm, has caused death to a child or has sexually abused a child]\* **\*been responsible for an incident of sexual abuse of a child or an incident of child abuse or neglect that caused serious injury or harm to a child, or has caused death to a child through abuse or neglect, or has put a child at risk of serious injury or harm\***;
2. A child in placement is already living in the home, or a child is recommended for placement in the home;
3. The Division and the Department office or contract agency having supervision of the child have determined that there is no danger to the child if he or she remains or is placed in the home;
4. The Division and the Department office or contract agency having supervision of the child have determined that it is in the child's best interest to remain or to be placed in the home; and

5. The Chief of Resource Family Licensing in the Office of Licensing has given approval for the resource family home to be open for all children already in placement or recommended for placement in the home.

#### 10:122C-5.6 Training

(a) A Level I training requirement is as follows:

1. Prior to the issuance of a license, each applicant shall complete pre-service training, provided or approved by the Department, that will adequately prepare the applicant with the appropriate knowledge and skills to provide for the needs of the children who are or may be placed in the home.

(b) Each resource family parent shall complete annual in-service training, provided or approved by the Department, that will provide the resource family parent with the appropriate knowledge and skills to continue to provide for the needs of the children placed in the home.

(c) Each new resource family parent added to the home shall complete the pre-service and in-service training specified in (a) and (b) above within the time frames determined by the Department.

#### 10:122C-5.7 Special Home Service Provider requirements

(a) In addition to all of the applicable requirements for a resource family parent specified in this chapter, a resource family parent approved by the Department to provide Special Home Service Provider (SHSP) foster care shall meet the requirements specified in (b) and (c) below.

(b) Level I requirements for SHSP foster care are as follows:

1. The resource family parent shall maintain current certification in Pediatric or Infant and Child Cardio-Pulmonary Resuscitation.

2. The resource family parent shall complete disease-specific training for each medically fragile child placed into the home.

3. The resource family parent shall maintain a weekly or monthly medical journal for each medically fragile child as required by the Division's medical unit or nurse consultant.

\*[4. In addition to the capacity limits specified in N.J.A.C. 10:122C-1.4, the resource family parent shall comply with the following SHSP capacity limits for children placed on or after (the effective date of these rules), unless the resource family parent obtains special approval from the Office of Licensing:

i. No more than two medically fragile children, including children in placement and all other children in the resource family; and

ii. No more than four children in total residing in the home, including medically fragile children, other children in placement, and all other children in the resource family.]\*

(c) Employment requirements for SHSP foster care are as follows:

1. In a home where there is one resource family parent, employment by the resource family parent outside the home shall not exceed 10 hours per week **\*at times when a medically fragile child in placement is present in the home\***, unless the resource family parent obtains special approval from the Office of Licensing.

2. In a home where there is more than one resource family parent, each resource family parent may be employed outside the home, provided that their hours of employment do not occur simultaneously **\*at times when a medically fragile child in placement is present in the home\***.

## SUBCHAPTER 6. RESOURCE FAMILY HOME PROGRAM REQUIREMENTS

### 10:122C-6.1 Supervision of children in placement

(a) Level I supervision requirements are as follows:

1. The resource family parent shall ensure the supervision of each child in placement, as appropriate to the child's age and particular needs, at all times.
2. The resource family parent shall be reachable by telephone in the event of an emergency or illness when the child in placement or resource family parent is not in the home.
3. When temporary care is provided for a child in placement on behalf of the resource family parent for more than three consecutive days, either in the resource family home or in the temporary caregiver's home:
  - i. The resource family parent shall inform the Department office or contract agency of the temporary care arrangements;
  - ii. The temporary caregiver shall complete a Child Abuse Record Information background check, as specified in N.J.A.C. 10:122C-5.5, and a check of court records (known as a PROMIS/GAVEL check);
  - iii. The temporary care arrangements shall be approved by the Department office or contract agency having supervision of the child; and
  - iv. The temporary caregiver shall be trustworthy and well known to the resource family parent.
4. When a child in placement attends a child care center or family child care home, the program shall be either licensed, as specified in N.J.A.C. 10:122, or registered, as specified in N.J.A.C. 10:126, as applicable.

### 10:122C-6.2 Visitation and communication

(a) The Department office or contract agency having supervision of the child in placement, in consultation with the resource family parent, shall determine the family members and friends with whom the child may communicate and visit.

(b) Level I visitation and communication requirements are as follows:

1. The resource family parent shall comply with the visitation restrictions specified by the Department or contract agency for each child in placement.
2. The resource family parent shall provide each child in placement with access to a telephone for telephone conversations with the child's caseworker **\*and law guardian or law guardian investigator, as applicable\***.
  - i. The resource family parent shall not obligate the child in placement to pay for the cost of telephone calls to and from the caseworker.
  - ii. The resource family parent shall provide each child in placement with adequate privacy for telephone calls to and from the caseworker, but the resource family parent may locate the telephone in an area where the resource family parent can observe the child's reactions.
3. The resource family parent shall provide each child in placement with reasonable access to the telephone for telephone conversations with the child's parents.
  - i. The resource family parent may impose restrictions on these conversations if necessary to comply with a court order or child's case plan that limits the child's contact with his or her parents.

ii. When the resource family parent imposes restrictions on a child's access to telephone conversations, as specified in (b)3i above, the resource family parent shall explain the nature of the restrictions to the child.

4. The resource family parent shall prohibit the use of tapes or any other mechanical or electronic listening devices to monitor the telephone calls of a child in placement.

5. The resource family parent shall provide each child in placement with adequate amounts of stamps and writing materials for corresponding with family, friends and other persons who have a positive relationship with the child.

6. If a visitor appears to be under the influence of drugs or alcohol, the resource family parent shall prohibit the individual from transporting the child in placement.

(c) The resource family parent shall provide each child in placement with reasonable access to the telephone for telephone conversations with friends. The resource family parent may impose one or more of the following conditions:

1. Restricting the time and duration of telephone calls;
2. Denying the child use of the telephone for discipline reasons; and
3. Requesting the child to identify telephone callers.

(d) If a visitor appears to be under the influence of drugs or alcohol, the resource family parent:

1. May restrict the individual from visiting; and
2. Shall immediately contact the Division.

(e) The resource family parent shall request that the child in placement open parcels or letters in the presence of the resource family parent upon suspicion that the contents contain contraband. If the child refuses to comply with this request, the resource family parent shall inform the child's caseworker.

(f) The resource family parent shall permit a child in placement to visit his or her Division or contract agency caseworker **\*and law guardian or law guardian investigator, as applicable,\*** upon request.

#### 10:122C-6.3 Education

(a) The resource family parent shall cooperate with the Department to ensure that each school-age child in placement receives an educational program pursuant to N.J.S.A. 30:4C-26(c) and N.J.S.A. 18A:7B-12(a).

1. The resource family parent shall register each school-age child in placement in school.
2. The resource family parent shall ensure that each school-age child in placement attends school regularly according to applicable State and local school attendance requirements.
3. Home schooling in lieu of school attendance for a child in placement shall be prohibited.

(b) The resource family parent shall encourage good study habits, be involved with the academic progress of each child in placement, attend school conferences and meet with school personnel when there are problems or periodic reviews.

1. The resource family parent shall review and sign report cards and other reports that pertain to the child's education.
2. The resource family parent shall inform the Division or contract agency caseworker about the academic progress of each child in placement.

(c) The resource family parent shall ensure that each preschool-age child in placement is provided age-appropriate activities and an environment suitable to stimulate the child's proper development.

(d) The resource family parent shall ensure that each child in placement who is three or four years old, or five years old and not enrolled in kindergarten, attends an early childhood education program. The early childhood education program shall be:

1. Provided by a licensed child care center, a registered family \*[day]\* **\*child\*** care provider, or a public or private school\*, **or provided or approved by the Department of Human Services, the Department of Education or the Department of Health and Senior Services\***; and

2. Approved by the caseworker as meeting the child's educational needs.

(e) The resource family parent shall ensure the opportunity for the continuity of the cultural and ethnic growth and education of each child placed in the home.

#### 10:122C-6.4 Recreation

(a) The resource family parent shall provide the child in placement with opportunities for recreational activities, hobbies and events within the home and in the community.

(b) The resource family parent shall encourage the child in placement to participate in community and school activities, such as scouting, clubs and sport teams, if appropriate.

#### 10:122C-6.5 Religion

(a) The resource family parent shall ensure that the child in placement is afforded the opportunity to attend religious activities and services in the community in accordance with the faith of the child's parent.

(b) The resource family parent shall provide or arrange transportation if the child in placement wishes to attend religious activities or services.

(c) The resource family parent shall not coerce or require a child in placement to participate in religious activities, nor punish a child in placement who chooses not to participate in religious activities.

(d) The resource family parent's religious practices shall not interfere with a child in placement receiving medical care.

(e) The resource family parent may include the child in placement in the resource family parent's religious activities or services if the child expresses such interest and the child's parent consents.

#### 10:122C-6.6 Food and nutrition

(a) Level I food and nutrition requirements are as follows:

1. The resource family parent shall ensure that each child in placement is provided with at least three nutritious meals daily.

2. The resource family parent shall make daily snacks available if the child in placement desires them, unless there is a medical reason not to provide them.

3. The resource family parent shall select, store, prepare, and serve food in a sanitary and palatable manner.

4. The resource family parent shall not force-feed or otherwise coerce the child in placement to eat, except by order of a physician.

5. The resource family parent shall provide meals as prescribed by a physician for each child in placement who requires a specialized diet.
6. The resource family parent shall ensure that the daily diet for each child in placement includes a balance of foods from all essential food groups.
7. The resource family parent shall ensure that each meal contains a sufficient amount of food for each child in placement.
8. The resource family parent shall make available, as necessary, an alternate choice of food for each child in placement on a special diet or who, because of religious beliefs, cannot eat certain foods.
9. If the child in placement is an infant, the resource family parent shall follow a written plan developed with the infant's health care provider that includes the feeding schedule, special formula, nutritional needs and introduction of new foods.

#### 10:122C-6.7 Pets

- (a) The resource family parent shall ensure that pets kept in the home pose no danger to the health, safety or well-being of a child in placement.
- (b) The resource family parent shall ensure that all pets kept in the home are:
  1. Domesticated and non-aggressive;
  2. Vaccinated, if applicable, as prescribed by law or as recommended by a licensed veterinarian. The record of the vaccinations shall be maintained in the home, along with the name and address of the licensed veterinarian providing care for the pet;
  3. If sick, removed from the areas occupied by the child in placement, until the pet has been examined by a licensed veterinarian who verifies that the pet does not present a risk to the child; and
  4. Effectively controlled by leash, command or cage.
- (c) The resource family parent shall ensure that animal waste is disposed of in a sanitary manner.
- (d) If the child in placement is a pregnant adolescent, the resource family parent shall prohibit the child from cleaning a cat's litter box.

#### 10:122C-6.8 Discipline and control

- (a) Level I discipline and control requirements are as follows:
  1. The resource family parent shall not assign the responsibility for the discipline and control of a child in placement to another child, or to an adult who is not a resource family parent, unless the adult is providing temporary care on behalf of the resource family parent, as specified in N.J.A.C. 10:122C-6.1.
  2. The resource family parent shall not threaten discipline or administer discipline to a child in placement for the misbehavior of another child.
  3. The resource family parent shall not use the following types of punishment on a child in placement:
    - i. Any type of physical hitting, shaking or the use of corporal punishment;
    - ii. Forced physical exercise or forcing the child to take an uncomfortable position;



iii. Subjection to verbal abuse, ridicule, humiliation, or other forms of degradation;

iv. Deprivation of meals, sleep, clothing, or communication;

v. Mechanical or chemical restraint;

vi. Assignment of overly strenuous work;

vii. Exclusion from medical treatment, education or clinical treatment;

viii. Locking the child out of the home;

ix. Locking the child in a room or area of the home;

x. Withholding or threatening to withhold visits with the child's birth family; or

xi. Removing or threatening to remove the child from the home.

4. The resource family parent shall not use restrictive behavior management practices to control or modify the behavior of a child in placement.

5. The resource family parent shall use acceptable methods of discipline and control for the child in placement, such as:

i. Brief time-out;

ii. Withholding of privileges, such as television, play time, or other activity;

iii. Early bedtimes;

iv. Writing a story or an essay;

v. Having the child do extra chores that are appropriate to the child's age and ability; or

vi. Discussing the child's behavior with the child in a supportive manner.

#### 10:122C-6.9 Firearms and weapons

(a) Level I firearms and weapons requirements are as follows:

1. All firearms shall be secured in a locked steel gun vault approved by the Office of Licensing.

2. All ammunition shall be secured in a locked area separate from the firearm storage vault.

3. The resource family parent shall not maintain chemical weapons such as mace or pepper spray in the home unless these items are stored in a place inaccessible to children.

#### 10:122C-6.10 Clothing

(a) Level I clothing requirements are as follows:

1. The resource family parent shall ensure that each child in placement has a personal supply of adequate, clean, well-fitting, and attractive clothing appropriate to the child's age, gender, individual needs, community standards and season.

2. The resource family parent shall ensure that clothing for each child in placement is laundered as necessary and maintained in good repair.

3. The resource family parent shall not require a child in placement to wear any article of clothing that identifies the child as a member of an organization unless the child chooses to wear such clothing.

4. The resource family parent shall provide each child in placement with a chest of drawers or other permanent arrangement for storage of clothing and other personal belongings.

## SUBCHAPTER 7. HEALTH REQUIREMENTS

### 10:122C-7.1 Health care and medical treatment

(a) Level I health care and medical treatment requirements for children are as follows:

1. The resource family parent, in cooperation with the Division or contract agency caseworker, shall ensure that the medical, dental, and other health care needs of each child in placement are adequately and promptly met.

2. The resource family parent, in conjunction with the caseworker, shall identify a physician or health care organization that will assume responsibility for the routine medical care of each child in placement.

3. The resource family parent shall arrange for emergency, routine and follow-up medical care for each child in placement.

4. The resource family parent shall ensure that each child in placement receives a comprehensive physical examination, including vision and hearing screening, upon placement and annually thereafter. If the child receives vision or hearing screening at the child's school, additional vision or hearing screening shall not be required unless recommended by a health care provider.

5. The resource family parent shall ensure that eyeglasses, orthopedic apparatus or other equipment is available to each child who requires them, and shall immediately notify the Division or contract agency caseworker when such equipment is recommended, broken or lost.

6. The resource family parent shall ensure that each child in placement who is 13 years of age or below receives a Mantoux tuberculosis test unless the child has tuberculosis, or a Mantoux test is known to be contraindicated by a physician. The resource family parent shall ensure follow-up with a physician if Mantoux test results are positive.

7. The resource family parent shall ensure that each child in placement **\*receives dental care as follows:\***

**\*i. Each child\*** who has begun to develop teeth **\*[receives]\*** **\*shall receive\*** a dental **\*[examination]\*** **\*assessment by a physician or dentist\*** within three months of placement in the home and at least annually thereafter.

**\*ii. Each child three years of age or older shall receive a dental examination by a dentist within three months of placement and at least annually thereafter.\***

**\*iii.\*** If the resource family parent is unable to locate a dentist willing to provide service to the child, the resource family parent shall contact the Division or contract agency caseworker for assistance in locating a provider.

8. The resource family parent shall ensure that each child living in the home, including children in placement and all other children in the resource family, receives all age-appropriate immunizations as recommended by the child's physician.

9. A child residing in the home who is not in placement shall be exempted from immunization if the parent objects thereto in a written statement submitted to the Department or contract agency, signed by the parent, explaining how the immunization conflicts with the child's exercise of bona fide religious tenets or practices.

(b) The resource family parent shall maintain documentation of all medical, dental and other health care examinations and treatment for each child in placement.

(c) The resource family parent shall ensure that all medical, dental, psychological and psychiatric treatment or medication administered to a child in placement is explained to the child in an age-appropriate manner.

#### 10:122C-7.2 General health practices

(a) Level I general health practices requirements are as follows:

1. If a serious accident or illness occurs to a child in placement, the resource family parent shall take necessary emergency action and immediately notify the Department office or contract agency having supervision of the child, or the State Central Registry, if after business hours.

2. If a child in placement, resource family parent or household member has a serious communicable disease, the resource family parent shall:

i. Seek appropriate medical attention from a physician for the individual and determine the possible risks to others in the home;

ii. Isolate the individual posing a risk to others; and

iii. Contact the Division or contract agency caseworker or the State Central Registry, if after office hours, who shall determine whether the New Jersey State Department of Health and Senior Services, the local health department or other appropriate public health authority needs to be contacted.

3. The resource family parent shall maintain a smoke-free environment in all indoor areas of the home, and in all vehicles used to transport a child in placement.

i. The resource family parent shall prohibit smoking and the use of smokeless tobacco by children in placement.

ii. The resource family parent shall comply with the provisions of N.J.S.A. 2A:170-51.4 prohibiting any person from directly or indirectly selling, giving or furnishing to a minor under 18 years of age any cigarettes made of tobacco, any matter or substance that can be smoked, any cigarette paper or tobacco in any form, including smokeless tobacco.

iii. The resource family parent may permit smoking outdoors when no child in placement is present.

#### 10:122C-7.3 Prescription and non-prescription medication

(a) Level I prescription and non-prescription medication requirements are as follows:

1. The resource family parent shall administer prescription medication to a child in placement only when a physician, clinical nurse specialist, nurse practitioner or dentist authorizes the medication.

2. The resource family parent shall dispense non-prescription over-the-counter medication only in accordance with the recommended dosage for the age or weight of the child in placement, as indicated on the label or as directed by the child's physician, clinical nurse specialist, nurse practitioner or dentist.

3. The resource family parent shall ensure that all prescription and non-prescription medications are kept in an area inaccessible to children.

(b) The resource family parent shall safely dispose of all expired medications and prescriptions no longer in use.

#### 10:122C-7.4 Psychotropic medication

(a) Level I psychotropic medication requirements are as follows:

1. Before any psychotropic medication is administered to a child in placement:

i. The resource family parent, in conjunction with the Division or contract agency caseworker, shall ensure that the child is assessed by a psychiatrist, mental health clinical nurse specialist or mental health nurse practitioner, to determine the need for and the possible risks or side effects of the psychotropic medication; and

ii. The resource family parent shall be knowledgeable about the indications for the use of psychotropic medication, the therapeutic benefits and the side effects of such medication.

2. The resource family parent shall not administer psychotropic medication as a punishment or for the convenience of the resource family parent.

3. The resource family parent shall ensure that psychotropic medication is stored in an area inaccessible to children.

4. The resource family parent shall ensure that the child in placement receiving psychotropic medication is monitored in the following manner:

i. The resource family parent shall immediately report any observed side effects, which are identified in the assessment specified in (a)1 above, to the Division or contract agency caseworker and the prescribing psychiatrist, mental health clinical nurse specialist or mental health nurse practitioner.

ii. The resource family parent, in conjunction with the Division or contract agency caseworker, shall ensure that the psychiatrist, mental health clinical nurse specialist or mental health nurse practitioner reviews the child's status, behavior, well-being, progress, side effects and reason for continuing the medication every 30 days or as the psychiatrist, mental health clinical nurse specialist or mental health nurse practitioner deems necessary.

(b) When a child in placement is receiving psychotropic medication, the resource family parent shall maintain a medication log indicating the child's name, the type of psychotropic medication, and the date and time the medication is administered.

#### 10:122C-7.5 Personal care and hygiene

(a) Level I personal care and hygiene requirements are as follows:

1. The resource family parent shall provide the child in placement with the following:

i. Towels and washcloths;

ii. Diapers, if appropriate;

iii. Soap and toilet paper; and

iv. Hygiene supplies that are age-appropriate for the child's needs, such as toothpaste, toothbrush, shampoo, comb, brush, mouthwash, deodorant, razors, shaving cream and feminine hygiene articles.

2. For a child in placement unable to provide for his or her own personal care and hygiene, the resource family parent shall bathe and groom the child, and provide other personal hygiene services that are necessary to meet the child's needs.

3. The resource family parent shall ensure that each child in placement has the opportunity for at least eight hours of uninterrupted sleep each night.

(b) The resource family parent shall instruct the child in placement in age-appropriate personal care, hygiene and grooming habits.

(c) The resource family parent may permit a child in placement to maintain over-the-counter cosmetics, acne preparations and personal hygiene supplies among his or her personal possessions, as developmentally appropriate.

#### 10:122C-7.6 Environmental sanitation and hygiene

(a) Level I environmental sanitation and hygiene requirements are as follows:

1. The resource family parent shall ensure that disposable rubber gloves, which shall be discarded after each use, are used when any person in the home has contact with blood, vomit, urine, fecal matter or other body secretions of any person known to have an infectious disease.

2. The resource family parent shall ensure that all items in the home and outdoors that come into contact with blood, vomit, urine, fecal matter or other body secretions are washed and disinfected with a commercially prepared disinfectant whose label indicates it kills bacteria, viruses and parasites.

i. Disinfectant shall be used in accordance with label instructions.

ii. Items to be washed and disinfected shall include:

(1) Bedding and clothing;

(2) Furniture and carpeting;

(3) Toilet seats, sinks and faucets;

(4) Fever thermometers; and

(5) Mops, washcloths, towels and sponges that were used in the clean-up.

3. The resource family parent shall ensure that all persons in the home thoroughly wash their hands with a disinfectant soap after each incident of coming into contact with blood, vomit, urine, fecal matter or other body secretions.

### SUBCHAPTER 8. TRANSPORTATION REQUIREMENTS

#### 10:122C-8.1 Transportation and vehicle safety requirements

(a) Level I transportation and vehicle safety requirements are as follows:

1. The resource family parent shall provide or arrange for the routine transportation needs of each child in placement.

2. The resource family parent, household members or other persons known to the resource family parent may utilize their own private passenger vehicles to transport a child in placement provided that:

i. The driver possesses a valid automobile driver's license issued by the New Jersey Motor Vehicle Commission, hereinafter referred to as MVC;

ii. The vehicle has a valid motor vehicle registration and inspection sticker issued by the MVC; and

iii. The vehicle owner possesses vehicle liability insurance for bodily injury or death in minimum amounts as specified in N.J.A.C. 13:20-49H.1, and a copy of the insurance policy is maintained in the home.

3. The resource family parent shall ensure that each vehicle used to transport a child in placement, including vehicles operated by household members and other persons known to the resource family parent:

- i. Is maintained in clean and safe condition; and
- ii. Has seat belts for all passengers.

4. The resource family parent shall ensure that the following safety practices are followed for each vehicle used to transport a child in placement when the vehicle is in motion, including vehicles operated by household members and other persons known to the resource family parent:

i. Each child in placement who is 18 months of age or younger shall be secured in a child safety seat (child passenger restraint system) that meets Federal motor vehicle safety standards, in accordance with applicable provisions of N.J.S.A. 39:3-76.2a.

ii. Each child in placement who is over the age of 18 months shall be secured by a car seat, booster seat or seat belt appropriate for the age and weight of the child, in accordance with applicable provisions of N.J.S.A. 39:3-76.2f.

iii. Each child in placement up to eight years of age or 80 pounds shall be secured by a child safety seat or booster seat in the rear seat of the vehicle. If there is no rear seat, the child shall be secured by a child safety seat or booster seat in the front seat of the vehicle.

iv. Each child in placement shall be secured by a seat belt when seated anywhere in the vehicle.

v. Children in placement shall not be permitted to ride in the cargo area of a vehicle.

(b) The resource family parent shall ensure that each vehicle used to transport a child in placement, including vehicles operated by household members and other persons known to the resource family parent, has an operable heater.

(c) The resource family parent or other responsible adult shall be present when a child in placement is in the vehicle, as appropriate to the child's age and particular needs.