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A COMPARATIVE STUDY OF LAWS AND STANDARDS PERTAINING TO
THE LICENSING OF FOSTER HOMES IN EIGHT
WESTERN AND MIDWESTERN STATES

by

Patricia Ann Condon

A Thesis Submitted to the Faculty of the School of Social Work
of Loyola University in Partial Fulfillment of the
Requirements for the Degree of
Master of Social Work

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CHAPTER I

INTRODUCTION

In this thesis the writer will examine the laws pertaining to the licensing of foster-homes in eight Western and Mid-western states: Utah, Wyoming, Colorado, Nebraska, Iowa, North Dakota, South Dakota, and Minnesota. The standards of these states, as established by the administrative agencies, will also be considered.

The purpose of this study is to determine the adequacy of this legislation and to point out any existing weaknesses regarding coverage and administration. This thesis is part of a group project, the aim of which is to examine the laws and administrative practices pertaining to foster-home licensing in all forty-eight states. Six students participated in this project, each studying eight states. Material was gathered through correspondence with the administrative agencies and by examination of the laws. The states in given geographical areas were assigned to each of the members of the group project in order that sectional similarities and differences might be noted.

Children are placed in foster homes for a variety of reasons.

Some are placed for the purpose of adoption, some because their own homes have been broken by illness, death or separation of parents, and others because inadequacies in the home or parents necessitate placement in a less threatening situation. Among foster homes, there are several types used for the placement of children. A boarding home is one in which the foster parents are paid for their services, which consist of personal care and training in addition to food and shelter for the child. A free home affords the same type of care as a boarding home, without payment. A wage boarding home is one in which a boy or girl works outside the home and pays his own board directly to the foster parents. A work home is one in which a child earns his room, board, and care by helping in the home and is accepted as a member of the family group. A wage home is one in which the child earns a definite wage in addition to his room and board. A receiving or temporary home is one in which children are placed for temporary, emergency care. An adoptive home is one in which a child is placed, on a free basis, with the understanding that if the situation proves satisfactory, the child will be legally adopted. Children are placed in foster homes by agencies, juvenile courts, or by their own parents, parent, or relatives.

According to the Constitution, the States share with the people responsibility in matters of public welfare. This was established by the ninth amendment to that document, which states: "The powers

not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."¹ Opinions vary on how this responsibility should be divided, and whether or not it should be further shared with authority on the Federal level. In Catholic circles, there is a tendency to view with alarm any sharing with the state of responsibilities which essentially belong to the family, because this "weakens the integrity of family life by depriving the family (or at least allowing it to shift its responsibility) of one of its most essential functions,"² that of caring for children. However, "that the state has an interest in the life and well-being of the child, sufficient to justify intervention between parent and child when the parent does not supply proper parental care, has been embodied in the juvenile court legislation now almost universal in the United States. That the health interest will at least justify legislation providing certain standards in the care of mothers and young children is likewise accepted in the courts as a proper exercise of the 'police power'."³

¹Andrew C. McLaughlin, "The Constitution, Article IX," A Constitutional History of the United States (New York, 1935), p. 806.

²Herbert Bisno, The Philosophy of Social Work (Washington, 1952), p. 48.

³Gladys G. Fraser, The Licensing of Boarding Homes, Maternity Homes and Child Welfare Agencies (Chicago, 1937), p. vii.

The writer will now attempt to determine how aware the eight states being studied are of their responsibility for protecting children in foster homes and how this responsibility is being carried out.

CHAPTER II

THE FOSTER HOME LICENSING LAWS

All but one of the states included in this study have laws pertaining to the licensing of foster homes, but there is wide variation as to the comprehensiveness with respect to the degree of protection they offer children.

The Nebraska law states that "the term 'child care' shall mean engaged in the business of exercising the care, supervision, custody or control over children under sixteen years of age, for compensation or hire, in lieu of the care or supervision normally exercised by parents in their own home, but shall not include casual care at irregular intervals."¹ The law does not require that all persons engaging in child care, as defined above, be licensed, but limits the need for a license to persons offering care "for two or more children from different families,"² which reduces coverage considerably.

¹Revised Statutes of Nebraska, Reissue of 1950, (Lincoln, 1950), Section 71, Paragraph 1901.

²Ibid., Section 71, Paragraph 1902.

Iowa's law states that "any person who receives for care and treatment or has in his custody at any one time, more than two children under the age of fourteen years, unattended by parent or guardian, for the purpose of providing them with food, care and lodging, except children related to him by blood or marriage, and except children received by him with the intention of adopting them into his own family, shall be deemed to maintain a children's boarding home,"³ for which a license is required.

The law in Colorado covers all types of foster care in defining a foster boarding home as "any institution, residence, dwelling or home, including nursery schools, day nurseries, and children's camps, in which is maintained a home either for the whole of the day or for any part of the day for a child under the age of sixteen years who is not related within the second degree to the operator of said home, dwelling, residence or institution."⁴

Minnesota's statute defines a facility for foster care requiring a license as "any establishment, boarding home, free home, work home, children's home, day-care home, day nursery, nursery school, or institution providing children with a substitute for the care, food, lodging, training, education or treatment they need but which

³1954 Code of Iowa (Des Moines, 1954), Chapter 237.

⁴Colorado 1953 Revised Statutes (Denver, 1953), Chapter 22, Section 12, Paragraph 1.

for any reason cannot be furnished by their parents in their home, except the following: It does not include schools which . . . operate for the primary purpose of educating children, rather than for the care, supervision, and training provided most children by their parents."⁵ The law further excludes homes caring for children from no more than one family for a period of less than thirty days; nor a home caring for children related to the operator thereof by blood or marriage; nor any institution under the management and control of the commissioner of Public Welfare or the Youth Conservation Commission."⁶

North Dakota law states that "any person, partnership, voluntary association or corporation owning or operating a home or institution receiving for day nursery or full time care or otherwise, during the calendar year, one or more children under the age of eighteen years shall procure annually from the division of Child Welfare of the Public Welfare Board a license to do so. The provisions of this section shall not apply when the children received by such person are related to him by blood or marriage, nor shall it

⁵Minnesota Laws of 1953 (St. Paul, 1953), Chapter 613, Section 1, Subdivision 3..

⁶Ibid.

apply to any home or institution under the management and control of the state."⁷

The states of South Dakota, Utah, and Wyoming do not have foster home licensing laws as such. South Dakota, under its law covering the licensing of maternity homes, includes "any institution, place, building or agency in which, within a period of six months . . . two or more infants under the age of two years, unattended by parents or guardians, for the purpose of providing them with care, food and lodging, except infants related to the one having such custody or control by blood or marriage."⁸ The law in Utah, covers both maternity and infant's homes; "any person who receives for care and treatment, or has in his custody at any one time, three or more infants under the age of three years, unattended by parent or guardian, for the purpose of providing them with food, care or lodging, except infants related to him by blood or marriage within the fourth degree computed according to the civil law, shall be deemed to maintain an infant's home."⁹ Wyoming has no licensing

⁷North Dakota Revised Code of 1943 (Bismarck, 1943), Chapter 50, Section 11, Paragraph 1.

⁸South Dakota Code of 1939 - Supplement (Pierre, 1949), Chapter 26, Section 8, Paragraph 3.

⁹Utah Code Annotated 1953 (Salt Lake City, 1953), Chapter 26, Section 8, Paragraph 3.

legislation for foster homes at present. Such legislation is being considered under the sponsorship of the Wyoming Youth Council, but according to Ethylyn E. Hartwell, Director of the State Division of Children's Services, "it as yet is in the somewhat distant future."¹⁰

Administration of the laws also is somewhat varied in the seven states. The Board of Control of the State of Nebraska is the licensing agency for that state. Licences here, as in the other six states, are issued for a one-year period. Nebraska stipulates that "all licenses issued under sections 71-1901 to 71-1905 shall expire on December 31 of each year, and shall be subject to renewal under the same terms and conditions as the original license. For the issuance or renewal of each license the board shall charge a fee of one dollar."¹¹ The law states that an investigation shall be made, before issuance of a license, "to determine if the character of the applicant or person in charge of the business and the place where the child care is to be furnished is such as to insure the proper care and treatment of children."¹² The board is further

¹⁰Letter from Ethylyn E. Hartwell, Director, Division of Children's Services, State of Wyoming Department of Public Welfare, December 9, 1954.

¹¹Revised Statutes of Nebraska, Reissue of 1950 (Lincoln, 1950), Section 71, Paragraph 1902.

¹²Ibid., Paragraph 1903.

empowered to promulgate general rules and regulations governing the type of home study to be made, and also has the right of revoking licenses "for cause, after notice and hearing, in accordance with such rules and regulations as may be prescribed by the board."¹³ The law is not specific as to the actual licensing procedure, but has left this to the discretion of the licensing authority.

The Iowa law gives power to the State Board of Social Welfare, "to grant a license for one year for the conduct of any children's boarding home that is for the public good, that has adequate equipment for the work which it undertakes, and that is conducted by a reputable and responsible person."¹⁴ It is further specified that "no such license shall be issued unless the premises are in a fit sanitary condition, and the application for such license shall have been approved by the State Department of Health."¹⁵

Unlike the Nebraska law, which leaves administrative detail to be determined by the Board of Control, the Iowa statute includes this data. The license is to include name of licensee, address and the number of children to be cared for. A record of licenses issued shall be maintained by the licensing authority. The State Board of

¹³Ibid., Paragraph 1902.

¹⁴1954 Code of Iowa, Chapter 237, Paragraph 3.

¹⁵Ibid., Paragraph 4.

Social Welfare shall notify, upon granting a license, the State Department of Health, as well as the local Board of Health of the city, village, or town in which the home is located and will inform these agencies of the conditions thereof.¹⁶ Revocation of licenses also is the responsibility of the licensing agency. As in Nebraska, licenses are valid for one year from the date of issuance.¹⁷ The board is further given rights and duties regarding records, reports and inspections of children's boarding homes.¹⁸

The law in Colorado is administered by a Board of Standards of Child Care which is to consist of nine members "who have a known interest and experience in administration of children's services."¹⁹ This board shall be appointed by the governor and shall include "one representative of the department of public health, one representative of the office of the superintendent of public instruction, one representative from the board of the Colorado State children's home, two representatives from rural areas, and one each from a Catholic, a Protestant, and a Jewish organization sponsoring Child

¹⁶Ibid., Paragraphs 5, 6 and 7.

¹⁷Ibid., Paragraph 12.

¹⁸Ibid., Paragraph 14.

¹⁹Colorado 1953 Revised Statutes, Paragraph 3.

Care programs. This board shall adopt and make available minimum standards required of persons or agencies seeking licenses under this article to operate foster boarding homes or child placement agencies, and shall make rules and regulations in harmony with approved standards for the conduct of such foster homes and child placement agencies as shall be granted a license as provided in section 22-12-2."²⁰ The board is further empowered to utilize facilities and services of other state agencies, and to "appoint committees of its own membership to perform certain delegated investigations or duties."²¹

Under the Colorado law, a foster home is either licensed by the Board of Standards or given a certificate from a licensed child placement agency in form prescribed by the board and provided by the state Department of Public Welfare. This feature of the law is somewhat unique; the certifying agency is required to inform the board of standards regarding the suitability of the home and to specify the name, address, and religious faith of the person to whom the certificate is issued, the number and ages of children for whom the person certified is to care, and any other information required by the board. The law also specifies that no person shall be certi-

²⁰ Ibid.

²¹ Ibid.

fied by more than one agency, but that a person certified may receive a child from other sources, on the written consent and approval of the certifying agency regarding each child.²²

The board of standards is given wide administrative powers, including the right of inspection of any home licensed, or applying for a license under the law. The board likewise has power of revocation, which will be discussed more fully in a later chapter.²³

Responsibility for administration of the Minnesota statute, both for licensing of private agencies and foster home facilities lies with the Commissioner of Public Welfare, who is to "pass annually on the adequacy and suitability of every home, institution, day nursery, or other foster care facility which for gain or otherwise gives care, food, lodging, or treatment to one child or more than one child unaccompanied by parent or guardian for all or part of the day."²⁴ The commissioner in this state is given the responsibility, rather than a board or department, and he is to decide whether the interests and well being of the children to be cared for are protected before granting a license. This license is to be in

²²Ibid., Paragraph 2.

²³Ibid.

²⁴Minnesota Laws of 1953, Chapter 613, Section 3.

force for one year and is to prescribe the number and age groupings of children who may be under care at any time. The law prohibits placement of children in unlicensed homes, and violation of this is a misdemeanor punishable by fine and/or imprisonment.²⁵ Each licensed home is to make available to the commissioner all facts regarding service and operation that he might require, and is subject to visitation and supervision by the commissioner at any time.²⁶ This places an impossible amount of work on one individual, which is undoubtedly delegated to others. The responsibility would remain with the commissioner, however, and the law has merit in this area.

The North Dakota law is administered by the child welfare division of the public welfare board. Persons applying will be granted a license to conduct a children's home if they are "reputable and responsible persons," and can show that:

1. The premises to be used are in fit sanitary condition and properly equipped to provide good care for all children who may be received.
2. The persons in active charge of such home or institution are properly qualified to carry on efficiently the duties required of them;
3. The home or institution is likely to be conducted for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all children cared for therein; and

²⁵Ibid., Section 9.

²⁶Ibid., Section 5.

4. The institution or home will be maintained according to the standards prescribed for its conduct by the rules and regulations of the child welfare division of the public welfare board.²⁷

The child welfare division is to prescribe forms for registering and recording of children cared for in licensed homes and institutions and is further empowered to "make such reasonable rules and regulations for the conduct of such place as are necessary to carry out the purposes of this chapter."²⁸ The licensing agency is further empowered to inspect any homes or institutions licensed under provisions of the law, and may inspect records and see and interview all children under care.²⁹ The law has a further unique paragraph, pertaining to confidentiality of the records, which states that while all data will be confidential, information may be disclosed in a judicial proceeding, to officers of the law or other legally constituted boards or agencies, or "to persons having a definite interest in the well-being of the child or children concerned and who are in a position to serve their interests should that be necessary."³⁰ This could be interpreted to nullify the requirement of confiden-

²⁷North Dakota Revised Code of 1943, Chapter 20, Section 11.

²⁸Ibid., Paragraph 3.

²⁹Ibid., Paragraph 4.

³⁰Ibid., Paragraph 5.

tiality, for all practical purposes.

Revocation of licenses in this state also lies with the licensing authority, and violation of the law is termed a misdemeanor subject to a fine not to exceed \$100.00 and/or imprisonment in the county jail for not more than thirty days.³¹

South Dakota and Utah seem consciously or otherwise to agree with Grace Abbott, who has advocated licensing of maternity and infant's homes. She has said, in speaking of the development of licensing laws, that "boarding homes for children under two or three years of age were the first to come under the licensing system. There were more serious problems involved in the care of these infants than in care of older children, and a very high death-rate and the baby-farm scandals made control clearly necessary."³²

The licensing laws of both Utah and South Dakota differ radically in purpose and content from the five already referred to, and are included in this study only to indicate that the states in question have made an effort toward licensing a form of boarding care for some of their children. Both laws are administered by state departments of health. The South Dakota statute is quite specific in setting forth data required for obtaining a license, which is re-

³¹Ibid., Paragraphs 7 and 10.

³²Grace Abbott, The Child and the State, Vol. 2 (Chicago, 1938), p. 19.

newable annually, and in setting fees which vary from two to twenty-five dollars depending on the number of children they are licensed to accommodate.³³ Inspection by the State Board of Health is prescribed, and that agency is empowered to revoke licenses for cause.³⁴ The Utah law empowers the State Board of Health to license commercial infant's homes, after they have been properly inspected and the board is further charged with power to revoke.³⁵ South Dakota is considering a foster-home licensing law as a result of recommendations from the state Social Welfare Conference.³⁶ Utah contemplates no such action according to John Farr Larson, Director of the Bureau of Services for children. In writing to the author he stated: "The state does not have a law requiring Foster Homes to be licensed. We do license Child Placing agencies, and as a part of the licensing, the Foster Homes used by the Child Placing Agencies are examined,"³⁷ so that only children placed by agencies are protected.

³³South Dakota Code of 1939 - Supplement, Paragraph 4.

³⁴Ibid., Paragraphs 5 and 7.

³⁵Utah Code Annotated 1953, Chapter 26, Section 8, Paragraphs 5 and 13.

³⁶Letter from Fern L. Chamberlain, Chief, Research and Statistics Division, South Dakota Department of Public Welfare, December 10, 1954.

³⁷Letter from John Farr Larson, Director, Bureau of Services for Children, Utah Department of Public Welfare, December 10, 1954.

While Wyoming has no law directly pertaining to the licensing of foster homes for children, it does prescribe in a statute regarding the placement of dependent and delinquent children in families, the duty of the State Board of Charities and Reform to supervise such placements. This law pertains to child-caring agencies, societies, or institutions. It is interesting to note that the Department of Public Welfare is the only official social agency in Wyoming. The law prescribes that:

Child-caring agencies, societies, or institutions in placing out wards or other dependent children in private families shall safeguard their welfare by the thorough investigation of each applicant and his home and its environment, shall carefully select the child to suit the new relationships and location and shall personally and adequately supervise each home and child until the latter receives legal adoption or attains legal age. . . . The board of charities and reform may, at its option, require any child-caring agency, society, or institution to divulge the location and relationships of any or all of its placed-out children, and these may be visited by the board's members or agents to ascertain the conditions of such children, or the quality of placing-out work done; provided, however, that the location and relationships of such placed-out children shall be confidentially held by the board and its agents, and only revealed when the welfare of the children requires it, on order of a court of competent jurisdiction."³⁸

³⁸Wyoming Code of 1945 (Cheyenne, 1945), Chapter 58, Paragraph 510, Sub-paragraphs 1 and 3.

CHAPTER III

STANDARDS FOR FOSTER HOME CARE

The five states having licensing laws for foster homes as such provided the author with copies of their minimum standards and goals. These states include Nebraska, Iowa, Colorado, Minnesota, and North Dakota. Wyoming provided the author with a booklet entitled, "Information for Foster Parents," which is published by the Department of Public Welfare. Neither Utah nor South Dakota provided any information regarding their foster home programs.

The American Public Welfare Association, in a publication entitled, Foster Care, has set forth fundamental criteria for the selection of foster homes. The standards of the responding states will be compared with these criteria in the following paragraphs.

1. "Physical standards should take into account safety, light, ventilation, and heating of the house, cleanliness, sanitation and general furnishing; the location, neighborhood facilities and accessibility. There should be adequate space for separate sleeping rooms for children. It should be required that a bed of his own be provided for each child. It is preferable that infants should

not sleep in the same room as foster parents, and never after the age of two or three."¹

These general points have been incorporated into the minimum standards of all responding states. Minnesota requires that the supervising agency request the opinion of the appropriate fire prevention bureau in judging freedom from fire hazards, with subsequent fire inspections to be made "periodically when necessary."² North Dakota requires that local and state fire and safety regulations be met, and inspection is to be made by the Fire Chief in any municipality with an organized fire department, and by the State Fire Marshal, if the home is located in an area without one.³ Nebraska requires that licensed homes conform to state and local fire prevention standards, but makes no provision for inspection.⁴ Colorado standards require that the home be "so situated and so arranged that the children are not exposed to unnecessary hazards. Fire pro-

¹American Public Welfare Association, Foster Care (Chicago, 1948), p. 40.

²Department of Public Welfare, Standards for the Licensing of Foster Boarding Homes for Children (St. Paul, 1954), p. 5.

³Public Welfare Board of North Dakota, Social Work Manual, Chapter 424, p. 424-1.

⁴Board of Control, Minimum Standards for Licensing Child-Caring Homes and Day-Care Centers in Nebraska (Lincoln, 1951), p. 5.

tection and prevention must be emphasized. Fire hazards must be eliminated, according to local and state fire regulations.⁵ Iowa makes no mention of fire inspections, but specifies that the neighborhood be reputable and conducive to the health and safety of the child.⁶ Wyoming, in its Department of Public Welfare manual, sets no specific criteria for judging the physical standard of a home. "The neighborhood and home should be suited to the background of the child. Adequate school, church and recreational facilities should be available."⁷

Regarding the sleeping arrangements, all six sets of standards make some comment on this. All require that the child shall have a bed of his own, except in Nebraska, where the limit is two children to a double bed. Floor mats are prohibited in this state.⁸ All standards require removal of infants from adult sleeping quarters by the age of three.

2. "Adequate community resources should include easily accessible and well equipped schools and facilities

⁵The Board of Standards of Child-Care, Minimum Standards for Foster Family Homes (Denver, 1951), p. 3.

⁶Iowa Department of Social Welfare, Standards for Children's Agencies, Children's Boarding Homes, and Maternity Hospitals (Des Moines, 1943), pp. 10-27.

⁷Department of Public Welfare Manual (Cheyenne, 1953), p. 9.

⁸Board of Control, Minimum Standards for Licensing Child-Caring Homes and Day-Care Centers in Nebraska (Lincoln, 1951), p. 5.

for medical care, recreation, and companionship."⁹

This also is incorporated into the standards of the states.

Nebraska comments that the home or center caring for older children shall be near school and church, or near transportation to reach these places.¹⁰ Colorado wishes the location of a foster home to be in a neighborhood conducive to the general well-being of a child, in a district where he can attend school regularly.¹¹ The other four sets of requirements express similar sentiments.

3. "All members of the family should be in good physical and mental health and free of communicable diseases, as ascertained in consultation with the family physician."¹²

The five states are agreed as to the advisability of some type of physical check-up for foster family members. Colorado requires a report from time of licensing, and annually thereafter. Chest x-rays are recommended annually. All children should be immunized against whooping cough, diphtheria, and small pox.¹³

⁹American Public Welfare Association, Foster Care (Chicago, 1948), p. 40.

¹⁰Board of Control, Minimum Standards for Licensing Child-Caring Homes and Day-Care Centers in Nebraska (Lincoln, 1951), p. 5.

¹¹The Board of Standards of Child Care, Minimum Standards for Foster Family Homes (Denver, 1951), p. 3.

¹²American Public Welfare Association, Foster Care (Chicago, 1948), p. 40.

¹³The Board of Standards of Child Care, Minimum Standards for Foster Family Homes (Denver, 1951), p. 4.

Nebraska requests a statement from a licensed physician that prospective foster parents have had complete physical examinations within the last twelve month period, which would seem to be somewhat lax. The agency may require additional examinations if the applicant is over fifty years of age.¹⁴ Minnesota is more exacting and requires a statement from a physician certifying that a recent examination shows freedom from infectious conditions, or disabilities as well as requiring Wasserman and Mantoux tests. Annual re-examination is recommended.¹⁵ Iowa states that all members of the household must be in good health with no disqualifying physical or mental handicaps. All members shall be free from communicable disease and history of present and recurring mental disease, and verification is required.¹⁶ Wyoming expects good physical and mental health on the part of the foster family, but requests no verification.¹⁷

¹⁴Board of Control, Minimum Standards for Licensing Child-Caring Homes and Day-Care Centers in Nebraska (Lincoln, 1951), p. 5.

¹⁵Department of Public Welfare, Standards for the Licensing of Foster Boarding Homes for Children (St. Paul, 1954), p. 5.

¹⁶Iowa Department of Social Welfare, Standards for Children's Agencies, Children's Boarding Homes, and Maternity Hospitals (Des Moines, 1943), p. X-10-30.

¹⁷Department of Public Welfare Manual (Cheyenne, 1953), p. 11.

North Dakota demands a statement by the family physician that there is present no physical condition harmful to a child.¹⁸

4. "Reasonable economic security on the basis of a regular income adequate to provide essentials of comfortable and stable living should be required. Where the family income is not sufficient, but where extraordinary qualifications to deal with special problems are present, the agency should be prepared to pay a higher rate of board to cover the special services."¹⁹

The first part of this recommendation is stated with minor variations in all six sets of standards; the second thought is not included in any of the standards.

5. "Moral and ethical standards within the home, and appreciation of spiritual values, as well as such religious affiliations as may be required by the agency, should exist."²⁰

Iowa and Colorado both desire children to be placed in homes of their own religious faith. In Colorado, if an exception is made to this rule, permission must be secured from a minister, rabbi, or priest of the child's own faith.²¹ Both states expect that religious

¹⁸Public Welfare Board of North Dakota, Social Work Manual, p. 424-2.

¹⁹American Public Welfare Association, Foster Care (Chicago, 1948), p. 40.

²⁰Ibid.

²¹Colorado State Department of Public Welfare Staff Manual, Vol. VII (Denver, 1952), p. 7.

growth will be fostered in the children.

Wyoming and Minnesota make reference to church attendance, but do not require matching of the faiths of foster parents and children. Wyoming standards state that: "Church attendance, when possible, is an important phase of a child's development. He should be allowed to attend the church designated by his parents. If they have no church affiliation, the child should attend church with the foster parents."²² Minnesota asks that foster parents respect and protect the child's religious heritage, inspire his capacity for spiritual well-being, and possess themselves a way of life reflecting adherence to high moral standards.²³ Nebraska specifies that children of suitable age shall attend regularly church services and religious schools of their own religious faith, so far as is reasonable and possible.²⁴ North Dakota makes no stipulation regarding religious training.

6. "The family should be a complete family group with a mother and father, except in unusual situations, such as the home of widows who may have outstanding contri-

²²Department of Public Welfare, Information for Foster Parents (Cheyenne, n.d.), p. 11.

²³Ibid., p. 4.

²⁴Iowa Department of Social Welfare, Standards for Children's Agencies, Children's Boarding Homes, and Maternity Hospitals (Des Moines, 1943), p. X-10-31.

butions to make in the care of older children or children with actively interested fathers. The foster parents should be of a suitable age to meet the needs of children, in terms of physical strength and flexibility."²⁵

This requirement is inferred in the North Dakota and Minnesota statutes, which consistently refer to foster parents, but do not comment specifically on the use of a widow or single woman as a foster parent. Nebraska does not even infer the desirability of a complete family group, but uses the term "persons" in discussing the licensees. Iowa also evades the issue but refers to "foster parents" and prohibits a foster mother from taking regular employment outside the home.²⁶

The Colorado Department of Public Welfare Manual²⁷ states this requirement, but it is not spelled out in the Minimum Standards. The Manual states parenthetically that: "It is true that many own children are reared without a father, but this is not considered the preferable way to rear children, and foster children frequently

²⁵American Public Welfare Association, Foster Care (Chicago, 1948), p. 40.

²⁶Iowa Department of Social Welfare, Standards for Children's Agencies, Children's Boarding Homes, and Maternity Hospitals (Des Moines, 1943), p. X-10-28.

²⁷Colorado State Department of Public Welfare Staff Manual, Vol. III, 6.

lack a father of their own and therefore need a substitute one even more. Moreover, a woman without a husband may expect children to meet her affectional needs instead of her meeting theirs."²⁸

Wyoming has nothing to say regarding this issue.

7. The personalities and relationships of all members of the family should be such as make for wholesome, complete and stable family life. It has been found that in general the foster mother is the dominating figure in homes offered to the placement agency, since it is usually she who will decide to take a child into the home. Nevertheless, the importance of the foster father in meeting emotional needs of many children is not to be overlooked. The family as a whole should be capable of giving to the child, love, consideration, and opportunities for his development, and of wanting and accepting him as a member of the family group, where he may participate in the family and community life. In their individual dealing with the child, the foster family should be intelligent, understanding and flexible.²⁹

All of the states express similar expectations regarding the foster parents and others in the family group. Wyoming suggests that foster parents "know how to care for children and be willing to learn more about children's needs. They must have faith in children, trust them, and be able to instill in them a feeling of confidence and security."³⁰ Wyoming is also realistic enough to

²⁸Ibid.

²⁹American Public Welfare Association, Foster Care, pp. 40-41.

³⁰Department of Public Welfare, Information for Foster Parents, p. 4.

point out that foster parents will have varying degrees of success with children, regardless of their qualifications for the work, because some of the children cannot feel comfortable in any foster home. Nebraska sets age limits for applicants for licenses, and they may not be over sixty-five or under twenty-one.³¹ Furthermore, they "shall be of good character and habits, mentally competent, of even temperament, and shall like children and have an understanding of their needs."³²

Colorado sets a few extra requirements. "Foster parents and other persons in the foster home shall be of good moral character. They shall be emotionally stable and have a genuine interest in children. They shall not use profane or obscene language or be addicted to the use of intoxicants or narcotics."³³ Satisfactory references from at least three persons concerning the health, character, and financial stability of the prospective foster parent or parents is also required.³⁴

³¹Board of Control, Minimum Standards for Licensing Child-Caring Homes and Day-Care Centers in Nebraska (Lincoln, 1951), p. 4.

³²Ibid., p. 5.

³³The Board of Standards of Child Care, Minimum Standards for Foster Family Homes (Denver, 1951), p. 3.

³⁴Ibid.

Minnesota looks for foster parents who maintain a stable and harmonious home life, who are able to meet and understand a child's need for affectionate ties, and satisfying family relationships. Further qualities desired are respect for the child's individuality and flexibility regarding changes in a child's behavior.³⁵ In Iowa foster home life "should be harmonious enough to give the children the emotional stability they need. All members of the family must be willing to accept the boarding child into the home as a member of the family group. They should be able to give the child experience in normal family life."³⁶

8. The motives for wanting a child should be in no way at variance with the best interests of children. Emotional need on the part of the foster parents which may put too great demands on the child, and which may not permit them to let him grow up according to his own capabilities, should be a disqualifying factor.³⁷

All of the states refer to foster parents' motivation in caring for children, directly or by inference. Colorado states that the foster parents' "motivation in taking a child should contribute

³⁵Department of Public Welfare, Standards for the Licensing of Foster Boarding Homes for Children (St. Paul, 1954), pp. 3-4.

³⁶Iowa Department of Social Welfare, Standards for Children's Agencies, Children's Boarding Homes, and Maternity Hospitals (Des Moines, 1943), p. X-10-30.

³⁷Colorado State Department of Public Welfare Staff Manual, VII, p. 6.

to his development rather than primarily to their own needs. They should have a wholesome attitude toward and intelligent understanding of habit training, discipline, health, sex education, and the various experiences that may have touched a child and on which he may need help and guidance."³⁸ Wyoming is desirous that foster parents undertake foster care for the "joy of mothering and fathering a child who needs you in order to grow up to be a fine, healthy citizen,"³⁹ rather than for the board check. North Dakota would like the family to consider first "the health, morality and well-being of all children cared for,"⁴⁰ and Iowa and Minnesota express similar sentiments.

9. The foster family should be willing to and capable of working together with the agency, and of assuming the obligations involved in foster care throughout the period of placement.⁴¹

All of the state standards reflect this expectation in one form or another. North Dakota says that "foster parents must be willing to share responsibility for guidance and care with the pa-

³⁸Department of Public Welfare, Information for Foster Parents, p. 2.

³⁹Ibid.

⁴⁰Public Welfare Board of North Dakota, Social Welfare Laws, 937-3.

⁴¹American Public Welfare Association, Foster Care, p. 41.

rents or the person(s) having legal custody of the child."⁴² Colorado expects cooperation from the foster parents in areas of medical care, and a willingness to accept agency supervision.⁴³ Iowa also requires that foster parents work with the supervising agency, consulting with it "at all times with regard to care and training of the foster child and on plans for him when it involves more than the day-by-day routine. Foster parents' relationship with the child's own family shall not include plans for the foster child without the knowledge of the supervising agency."⁴⁴

The Minnesota standards call for foster parents "who understand and accept the foster home's relationship to an agency; who recognize that their home is an integral part of the agency structure; and who will operate in accordance with agency policies."⁴⁵ Wyoming expects cooperation and acceptance of agency supervision from the worker as well as acceptance of the fact that final responsibility for the child's welfare remains with the agency and with

⁴²Public Welfare Board of North Dakota, Social Welfare Laws, 424-3.

⁴³Colorado State Department of Public Welfare Staff Manual, p. 9

⁴⁴Iowa Department of Social Welfare, Standards for Children's Agencies, Children's Boarding Homes, and Maternity Hospitals (Des Moines, 1943), p. X-10-32.

⁴⁵Department of Public Welfare, Standards for the Licensing of Foster Boarding Homes for Children (St. Paul, 1954), p. 2.

the child's parent or guardian."⁴⁶ Nebraska desires close cooperation of foster parents with the agency in medical planning for the child.⁴⁷

⁴⁶Department of Public Welfare, Information for Foster Parents, p. 2.

⁴⁷Board of Control, Minimum Standards for Licensing Child-Caring Homes and Day-Care Centers in Nebraska (Lincoln, 1951), p. 5.

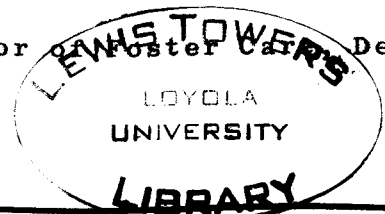
CHAPTER IV

CONCLUSION

Five of the eight states studied, namely: Colorado, Iowa, Nebraska, Minnesota, and North Dakota, have statutes regarding foster homes for children. These laws, while offering protection to the persons concerned, do not offer complete protection to all children in foster care. South Dakota and Utah license certain types of homes for infants, and Wyoming has no licensing law. From correspondence with officials concerned, the writer learned that South Dakota and Wyoming are interested in enacting more adequate legislation and that Utah is satisfied with present procedures. Letters containing this information have been cited in preceding chapters.

Of the five states with licensing laws, only Iowa is contemplating making any changes in the law at this time. There have been several attempts made to "extend licensing coverage to those homes caring for one or two children, as well as three."¹ Iowa is also in

¹Letter from Virginia Myhre, Supervisor of Foster Care, Department of Social Welfare, Des Moines, Iowa.



the process of revising her standards for foster care. This is being done by a General Foster Care Committee "composed of representatives from state-wide groups, professional groups, and lay individuals who give final approval for the revisions. We also have sub-committees working and composed of similar individuals, and these committees are responsible for the actual working out of the revisions of the standards for the different types of foster care facilities."² The other four states are apparently satisfied with laws and standards as they now exist; correspondence indicated no changes are being considered at present.

The five foster home licensing laws all display a weakness with respect to coverage. As has been noted, Iowa requires a foster home license only for foster homes caring for three or more children although boarding homes caring for less than three children can be issued a certificate of approval. Since this is not mandatory, the effect of the certificate is questionable. An equally glaring weakness in the law is its coverage of children only to the age of fourteen, and the exclusion of children placed for adoption. However, it should be stated that adoption laws usually require careful supervision of agency placements. The weakness of the laws then might affect only independent adoptive placements.

²Ibid.

The Colorado law protects children up to the age of sixteen; however, ideally protection should be given to any child during the period of his minority when he is living in any home not his own, with personal guardianship vested in others than the foster parents. The Colorado law is good in that it delegates authority to the Board of Control for establishing standards, since these can be modified and changed more easily than a law. The Colorado board, made up as it is of experts in the field of child welfare, would seem well qualified to regulate foster homes.

Nebraska law protects only children under the age of sixteen also, and the wording of the law ignores children in free homes. The law apparently is aimed at commercial boarding homes, while another statute, Placing of Children,³ regulates agency placements more efficiently.

The North Dakota statute is the most complete, in the author's opinion, since coverage is provided for children to the age of eighteen. The law excludes children cared for in homes or institutions controlled by the state, but these children are protected by other statutes. Minnesota law, like Colorado's and Nebraska's, only

³Board of Control, Department of Assistance and Child Welfare, State of Nebraska: Compilation of Federal and State Public Welfare Laws (Lincoln, 1948), p. 49.

protects children in foster homes through the licensing of these homes until the age of sixteen, and excludes children in homes pending adoption. However, it should be noted that in Minnesota a measure of protection is provided all children placed for adoption in that there is statutory provision that the Department of Public Welfare must be notified of all adoptive petitions and is given a period of 90 days in which to make an investigation of the placement and a recommendation to the court as to whether the adoptive petition should be granted or denied.⁴

A study of the five laws in question indicates an awareness of these states that special protection is needed for children under the care of others than their own parents. There are, unfortunately, great numbers of children unprotected by these laws. Also, a study of the legislation and accompanying standards does not indicate in any way whether or not these laws are effectively administered by qualified individuals. It has been observed that:

As boarding-homes for older children were included in the licensing system, there has been in some states an unnecessary amount of inspection and licensing. If a child placing agency is licensed and supervised there is no reason for licensing and inspecting the individual boarding-homes it uses. The state (through the agency licensing agencies) should have the right to visit any foster-home

⁴Minnesota Laws of 1953, Chapter 259, paragraph 27, section 7.

and order the removal of a child if it finds the home unsuitable. In addition to reading case records, visits can be made to determine the character of the work a private agency or a local government is doing. But a double system of visitation is unnecessary; tends to become routine and casual, and hence much less useful than a more careful study of random samples of the agencies' work.⁵

All of the eight states studied provide for control over organizations which undertake to care for children who have been deprived of their own homes. Further legislation aimed at eliminating the inauguration of child-caring activities by individuals or groups not equipped to carry on such programs might be considered. The interests of children cared for in substitute homes will, in the long run, be better served by state efforts to improve the quality of service rendered by child placing agencies rather than by attempting to control quality of foster homes exclusively through a licensing system, which can only bring about the elimination of gross evils. Children not placed by agencies will continue to need the protection of a licensing system, as long as independent placements are made. The ideal would be to have all foster home placements arranged and supervised by licensed agencies, in order that the child's welfare might best be protected.

⁵Grace Abbott, The Child and the State, Vol. II (Chicago, 1938), p. 19.

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