A Comparative Study of Laws and Standards Pertaining to the Licensing of Foster Homes in Eight Pacific Coast States

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

by

Louis Eva Black

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 Arts

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CHAPTER I

INTRODUCTION

The purpose of this study is to compare and evaluate the various state laws pertaining to the licensing of foster homes in eight Pacific coast states, with emphasis on the social and administrative implications of these statutes. This thesis represents part of a group project undertaken by six students from the Loyola University School of Social Work, whose purpose it was to study the laws and standards pertaining to the licensing of foster homes in all of the forty-eight states.

A group of eight states in a specific geographical area was assigned to each member of the project. This division was decided upon, rather than a random selection of states, since it would make possible a determination as to whether or not there were any sectional similarities or differences in the foster home licensing laws of the various states studied.

This particular study will focus on the licensing laws and standards for foster care in the following eight states: Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, and Washington. Each of these eight states under study has interested itself in the matter of protection of children living away
from their own homes in foster family homes. Since these children are not in the care of their own families, each individual state concerned, has the responsibility for seeing to it that such children receive proper care and, therefore, these states have passed laws relating to the licensing of foster homes in order to protect these children.

"During the past half century nearly every State in the Union has passed laws designed to protect these children in foster care by requiring that no agency or institution may care for children without a license from the State. But in spite of this, many children live under bad conditions either because the law covers only children of certain ages, or children cared for by certain types of homes, or because the State agency responsible for administering the law is not adequately staffed to see that all children are protected."\(^1\)

It was the objective of the author in writing this thesis to ascertain how the eight Pacific coast states studied have met their responsibility for protecting and safeguarding the rights of children who, for one reason or another, have been deprived of their own homes and must be cared for by persons other than their own families. An effort will be made to determine if the provisions of the statutes of each of the states offer protection to

\(^1\)Virginia Fenske, "State Protects Children Living Away from Their Own Homes," The Child, XXI No. 9, (March 1948) 135-37; 142.
all children in foster care, and if not, what children or groups of children are denied protection because of the inadequacies of the laws.

The Regional V Representative of the United States Children's Bureau was interviewed by members of the group project to ascertain if this federal agency, whose primary concern is the welfare of all children, may have proposed a model law for the licensing of foster homes, or if such a law existed that could be used as a standard for evaluating the existing licensing statutes of the various states. It was learned that a proposal for a uniform licensing law had not been made because each state has its own individual needs and problems which have to be considered in drafting a licensing law. However, the representative of the Children's Bureau did discuss some of the basic elements of a good licensing law and these will be presented in Chapter IV as a basis for comparing the licensing statutes of the eight states studied.2

The author also found that characteristics of a good licensing law as proposed by Virginia Fenske, Child Welfare Consultant, Washington State Department of Public Welfare, were helpful as a frame of reference for evaluating the adequacy and effectiveness of the licensing laws of the States studied.

The method used in this study included an examination of

2Information obtained in a personal interview with Miss Bess Craig, Regional V representative, United States Children's Bureau.
the existing statutes of eight Pacific coast states, a review of material received from the eight State Departments of Welfare regarding standards of foster care in each of the respective states, and a review of social work literature for background information in the field of foster care.
CHAPTER II

ANALYSIS OF STATUTES PERTAINING TO LICENSING OF FOSTER HOMES IN EIGHT PACIFIC COAST STATES

In this chapter an analysis of the statutes pertaining to the licensing of foster homes in eight Pacific coast states will be presented. Attention will be focused on statutory provisions relating to the following aspects of licensing: the state agency vested with the authority to license foster homes; definition of "foster home" and persons required to have a license; exemptions from licensing or certification; delegation of authority for licensing; provisional or temporary licenses; number and age of children as determinants of need for license; length of care as a determinant of need for a license; monetary considerations as determinant of need for a license; responsibility for formulating standards for foster care; authority for investigation and supervision; duration of license and fee; enforcement through revocation and penalties; right of appeal; removal of child; and records and registers of placement.

One of the basic purposes of licensing is to insure against certain risks; to protect the child by identifying these risks and establishing safeguards to meet them. "The major pur-
pose of licensing foster homes is to provide a means of protection for children living in foster homes that are not under the supervision of an agency.\(^1\) Children placed independently in commercial boarding homes or free homes are especially in need of protection because of the conditions inherent in such placements. As Kathryn H. Welch points out:

In the first place, the independent homes is selected, not by a professionally qualified person with a knowledge of the qualities which should characterize a desirable foster home but by a parent or relative or other person, who may have been under great pressure to find a home for a child within a short time. A home selected in such a way may have little to contribute to the social and emotional development of children and may be wholly unsuitable for meeting the needs of a particular child. As a result, serious problems affecting the social and physical well-being of children result. Some of those problems are unsatisfactory foster-parent relationships, exploitation of children, and inadequate physical care, including improper food, insufficient clothing, and poor health care. Also, when there is no supervision of a child's own family situation, many problems pertaining to relationship with his own family may arise. The parents may fail to pay board or may even abandon the child. Strong emotional attachments between a child and foster parents may be developed, resulting in disturbing experiences for the child when he returns to his own family.\(^2\)

However, since many independent placements do not become known until the child has been in the home over a period of time, the usefulness of the licensing requirement is limited. But when such placements do become known the authority given by the law to make an investigation of the home provides an opportunity to pro-


\(^2\)Ibid., p.21.
tect the welfare of children so placed. "Many unsatisfactory sit-

uation in independent family homes may be corrected and better

standards promoted by services given through the process of li-

sensing. Valuable as this may be, it does not make possible the cor-

rection of many of the undesirable situations which develop before

the placement becomes known. . . . Since this type of situation

frequently exists, it is apparent that efforts should be made to

prevent as many independent placements as possible by making agen-
services available for children who otherwise would be placed in-
dependently. Promoting the extension of agency services in a

community to all who need them will keep at a minimum the number

of independent placements."3

Historically, agency sponsored foster care was provided

for dependent or neglected children. These were children whose

parents were economically unable to rear them, or were considered

so completely inadequate that parental rights were removed by court

action, with a social agency being given guardianship. Recogni-
tion of the injustice to children deprived of their families led to the

formulation of child care principles by the first White House Con-

ference on Dependent Children in 1909 from which came the widely

quoted statement, "Home life is the highest and finest product of

civilization. It is the greatest moulding of mind and character.
Children should not be deprived of it except for urgent and com-

3Ibid.
pelling reasons."\(^4\) However, even though the emphasis has been placed upon resolving family problems whenever possible while the child remains in his own homes, there are still many instances in which foster care of the child is necessary when the parent or parents are handicapped for their child rearing function for various reasons and are unable to maintain an adequate home for the child or give him necessary care.

The last United States Census (1950) estimated that there were 175,000 children in foster family homes that year. Three out of five of these children were cared for by public foster care agencies and the others by voluntary agencies. Under the term "foster family homes" are included adoptive homes, boarding homes, free, work and wage homes and family homes used for day care.\(^5\)

Licensing of foster family homes may apply to all types of foster homes, boarding homes only, or only to homes caring for infants. In some states a license may not be necessary for a home caring for one child, and in others it is not required for homes caring for a child older than a specified age. Such licensing laws would seem to be inadequate since protection to children who must live away from their own homes should be extended to all children.

It will be the purpose of this thesis to attempt to ascertain the

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extent to which the eight states studied have assumed their responsibility for providing for the protection of all children within their jurisdiction who must live away from their own homes.

Agency Vested with Licensing Authority:

The first Act which gave to a state department of welfare responsibility for licensing foster homes was passed in Massachusetts in 1892. In seven of the eight Pacific coast states studied, i.e., Arizona, California, Idaho, Montana, Nevada, Oregon and Washington, the State department of Public Welfare is vested with the authority and responsibility for licensing foster homes, according to statutory provision. In the remaining state in the study group, New Mexico, the agency designated by statute to license foster homes is the New Mexico Department of Public Health. This law is quite recent and prior to 1953 there was no licensing requirement in the state. Although the Department of Health is the licensing agency, the actual division of responsibility in the administration of the foster home licensing laws between this state agency and the State Department of Welfare is not clearly indicated.

According to the New Mexico Statutes, the State Department of Welfare is charged with the administration and supervision of all child welfare activities, service to children placed in foster family homes and for adoption and for service and care of homeless, dependent and neglected children and children needing care

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6Massachusetts Laws, 1892, Chapter 313.
and service because of delinquency or mental deficiency. Thus there would seem to be some overlapping between the two departments. As nearly as can be ascertained from the available information, it would seem that although the Department of Public Health is the licensing agency, the Child Welfare Service Section of the Department of Public Welfare has responsibility for investigating and supervising foster homes.

"Foster Home" Defined and Persons Required to Have a License:

Arizona statutes define foster home as "Any family, not under the supervision of a child welfare agency, in which one or more children under sixteen years of age, separated from parent or guardian and unrelated by consanguinity or affinity to the person maintaining the home and received, cared for and maintained for compensation or otherwise." Thus the intent of the Placement Act is to require certification of commercial boarding homes used directly by parents in the placement of their children. However, the Child Welfare Consultant of the Arizona Department of Public Welfare indicated in a letter to the author that the department has never had sufficient staff to provide this service in the more populous areas of the state, even though the department does recognize its responsibility in this area.

California statutes define a foster home or boarding

\footnotesize{7Annotated Statutes of New Mexico, 1941, Chapter 73, Section 104.}
\footnotesize{8Annotated Code of Arizona, 1941, Cumulative 1952, Chap. 70, Sec. 513.}
home indirectly as, "A place for the reception or care of children under sixteen years of age, that receives or cares for children in the absence of their parents or guardian, either with or without compensation." According to the California statute "No person, association, or corporation shall without having first obtained a written license or permit therefor from the State Department of Social Welfare or from an inspection service approved or accredited by the department, maintain or conduct any institution, boarding home, day nursery, or other place for the reception or care of children under sixteen years of age, nor engage in the business of receiving or caring for such children, nor receive or care for such child in the absence of its parents or guardian, either with or without compensation."9

Idaho statutes define "Foster home" as "Any home or place wherein one or more children under 18 years of age not related by blood or marriage to the person or persons operating such a home or place, are regularly received and cared for."10 According to the Idaho Code any person or persons operating a foster home shall first receive a license from the Commissioner of Public Assistance. Thus it would seem that foster day care homes would also be required to have a license in Idaho.

In Montana's Revised Codes a "foster and boarding home

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9Annotated Code of California, 1952, Section 1620.
operator is defined as "Any person owning or operating a home or institution into which home or institution he takes any child or children for the purpose of caring for them and maintaining them and for which care and maintenance he receives money or other consideration of value and which child is neither his son, daughter, ward nor related to him by blood."11 According to the provisions of the Montana statute, no person may maintain or operate a foster or boarding home for any child or children without first securing a license in writing from the Division of Child Welfare Services of the State Department of Public Welfare.

Nevada statutes define "foster home" for children as: "Any family home in which one or more children under 16 years of age not related by blood, adoption or marriage to the person or persons maintaining the home are received, cared for, and maintained for compensation or otherwise..."12 The law provides that no person shall conduct a foster home so defined without receiving an annual license from the state welfare department.

New Mexico statutes define a "foster home" as: "A private family home with the adult or adults in charge acting as parents, and providing all of the necessary experiences and rela-

11Revised Code of Montana, 1947, as amended by Laws of 1949 and 1951, Chapter 10, Section 520.

12Nevada Compiled Laws, 1941, Section 1061.
The several types of foster homes are also defined as follows:

a. A boarding home is a foster home where the foster parents are paid for the child's care by an agency or individual. This applies to day care as well as full time care.

b. A free home is a foster home where no money is paid to the foster parents, and the child is not expected to pay for his own care through services.

c. A work-and-wage home is a foster home in which a child is placed under a definite arrangement that board and lodging (and often wages) are to be provided in return for the child's services to the family.

Thus it would seem that all types of foster homes are required to have a license from the New Mexico Department of Public Health.

Oregon statutes define "foster home" as: "Any home maintained by a person who has under his care in such home any child under the age of 18 years, not related to him by blood or marriage and unattended by his parent or guardian, for the purpose of providing such child with care, food and lodging." According to the provisions of the Oregon law, no person shall operate a foster home without a certificate of approval issued by the State Public Welfare Commission. Thus in Oregon homes receiving children under 18 years of age directly from parents or relatives, as well as from courts and other public agencies are subject to certifica-

13 Annotated Statutes of New Mexico, 1941, Sec. 71-213.
14 Oregon Revised Statutes, 1953, Section 326-495.
Washington statutes define a "foster home" as: "A family home which is operated with or without compensation to provide care on a twenty-four hour basis or during a period of twenty-four hours a day in lieu of the child's own home." According to the provisions of the Washington law, the Department of Public Assistance may maintain an action in the name of the state for injunction or other process against any person, agency or foster home which shall give temporary or permanent care or custody to a child or children. not related by blood, marriage or adoption to such person without having a license from the department or a certificate of approval as a foster home. Thus it would seem that day care homes are not required to have a license in Washington.

Exemptions from Licensing or Certification:

In Arizona only those persons caring for children "related to them by consanguinity or affinity" and/or for children over 16 years of age would seem to be exempt from certification.

In California the requirement for a foster home license does not apply to persons caring for children over 16 years of age or those caring for "neices, nephews, grandchildren, brothers, sisters, children for whom legal guardianship of the person is had, children for whom petition for adoption is being investigated."

In Idaho the only persons exempted from receiving a

15Revised Code of Washington, 1952, Section 52-78.
license from the Commissioner of Public Assistance in order to be authorized to receive and care for children would be those caring for children over 13 years of age and/or children related to them by blood or marriage.

In Montana persons caring for children related to them by blood or who are wards of the person, shall not be required to have a license. Also persons who take a child or children for the purpose of caring for them and maintaining them and for which care and maintenance receive money or consideration of value shall not be required to have a license if they accept such a child on a temporary basis and simply as a temporary accommodation for the parent or parents, guardian or relative of such a child. It would seem that this exemption could be loosely interpreted (although the intent of the provision is clear) since the term "temporary" is not defined and, therefore, it is conceivable that the provision could be deliberately or otherwise misconstrued and in some such instances, the child might not be properly protected. Further it would seem that free homes are exempted from the license requirement in Montana since the statute specifies that a license shall be required of a person operating a foster home who receives "money or other consideration of value for the care of the child." Perhaps the assumption here is that persons offering a free home to a child would be unselfishly and properly motivated in taking the child but unfortunately experience has shown that this is not always the case. It has been pointed out that there is a growing recognition
that children casually placed in adoptive homes or other free homes are especially in need of protection since a child so placed does not have the continuing interest of parents or relatives, whereas a child receiving care on a boarding basis has the one who is responsible for paying the board to maintain an interest in his well being. 16

The Nevada foster home licensing act does not apply to homes in which children are placed by their own parents or legal guardians and where the total cost of care is provided by said parents or guardians. This may make for inadequate protection to such children, as has been pointed out previously, since the parent may be under pressure to find a home for the child and the home selected may be one unsuited to meet the needs of the particular child. Also the parent may fail to pay the board or even abandon the child and in such cases little or no protection is afforded to either child or the foster parent when there is no measure of control exercised over such placements as there would be when the home is licensed and supervised.

Also, according to the definition of a foster home as set forth in the statutes of Nevada, persons caring for children over sixteen years of age would not be required to have a license, nor would persons caring for children related to them by blood, adoption or marriage.

16Welch, p.20.
"In Nevada there is recognition of the fact that a more comprehensive state law for the licensing of all types of child care facilities is needed in order to give protection to children in communities all over the state. Because the present state law does not cover all facilities caring for children, such as daycare homes, day-care centers, and institutions, the need for extending the protection of licensing to all children in foster care prompted two communities to adopt ordinances during 1952-54 providing for the licensing of all foster care facilities by the city government."17

In New Mexico it would seem that all types of foster homes are required to have a license, i.e., boarding homes, free homes, wage-and-work homes.

In Oregon foster homes specifically exempt from certification according to the licensing statutes are:

a. A family home which receives exclusively children related by blood or marriage to the person or persons maintaining the home.

b. A family home which receives children from a private child-caring agency certified by the State Public Welfare Commission.

c. A family home which accepts exclusively for care children whose board is paid by a school board and who are placed because the foster home is accessible to the school which the children attend.

d. A dormitory maintained by a school, i.e., any boarding school which is essentially and primarily engaged in educational work.

According to the Washington licensing statutes persons giving care to children related by blood marriage or adoption are not required to have a certificate of approval, nor do persons who give occasional care to a neighbor, relative or friend's child or children with or without compensation or persons who do not regularly engage in such activity or parents, who on a mutually cooperative basis exchange care of one another's children.

Delegation of Authority for Licensing:

The major requirement of all legislation authorizing the licensing of foster homes is that the home must be investigated and a license or some other form of permit be issued. Those states that have legislation authorizing the supervision of child-placing agencies have presumably made provision for safeguarding the children receiving care in foster homes used by agencies. While the various State departments of welfare are concerned with maintaining and improving the standards of all agencies' foster home placements, their special concern and responsibility is that of reviewing and approving the unsupervised foster home. Thus various plans have been developed in various states to delegate some of the authority for the licensing of foster homes to child-caring agencies; such plans include authorizing the agencies to issue their own licenses or permits, issuing the licenses on recommendation or the agencies, and exempting the homes of approved
agencies from the law.18

Arizona and California's State Department of Public Welfare and State Department of Social Welfare, respectively delegate responsibility for the licensing of foster homes to licensed child-placing agencies for the foster homes they use. In Arizona, all child-placing agencies must be licensed by the Department of Public Welfare and the Department delegates authority and responsibility to voluntary agencies to license yearly the homes they use. By a Supreme Court decision, the Placement Act includes the county departments as child-placing agencies. The county departments must be licensed and meet the same standards as the voluntary agencies and keep their foster homes currently licensed. However, the foster homes used by the counties are reviewed by the Child Welfare Consultants and the license is signed by the State Director of Child Welfare. It is hoped that eventually the county departments will be able to assume full responsibility for foster home licensing as the voluntary agencies do.19

According to California statute a person conducting a boarding home, day nursery or other place for the reception or care of children must first have obtained a written license or permit therefor from the State Department of Social Welfare or from an

18Welch, p.19.

inspection service approved or accredited by the department. Thus licensed child-placing agencies are authorized to engage in the licensing of foster homes.

In Idaho, Montana, Nevada and New Mexico foster home licenses must be issued by the state department so that authority for licensing apparently is not delegated to child-placing agencies in these four states. In Idaho, the Commissioner of Public Assistance is to issue all licenses for foster homes or foster day care homes. In Montana, all licenses for foster homes are to be issued by the division of Child Welfare Services of the State Department of Public Welfare. In Nevada, the State Department of Welfare is responsible for licensing all foster family homes. (However, two communities adopted ordinances during 1952-54 to provide for the licensing of all foster care facilities by the city government because day care homes, day centers and institutions were not covered by the state licensing law. In New Mexico the Department of Public Health is the licensing agency for all foster homes. However, it would seem that all of these state departments must necessarily delegate responsibility to the various child-placing agencies to investigate the foster homes that they use and then on the basis of the agencies' recommendation, issue a license to the home instead of going through the unnecessary duplication of a double investigation.

Oregon exempts from certification family homes which receive children from a private child-caring agency certified by
the State Public Welfare Commission.

Washington Department of Public Assistance issues foster home licenses directly or through county welfare departments acting for the department or licensees of the department (licensed child-placing agencies) which in the latter instances would seem to be tantamount to the state department issuing licenses on the recommendations of the county welfare departments and licensed child placing agencies.

Provisional or Temporary Licenses:

Of the eight states studied, New Mexico provides for the issuance of a temporary license to any licensee operating a foster home at the time (January 1, 1954) the current regulations governing foster homes became effective, if the home did not comply with the regulations and the operator of such a home would be given a reasonable length of time not to exceed one year from the date of the first inspection within which to comply with such regulations.

Arizona statutes provide for the issuance of a provisional license to any child-placing agency whose services are needed but which is temporarily unable to conform to the established standards of child care.

In Montana a provisional license may be issued at the discretion of the state department for a period of six months in instances in which time is needed for an applicant to be able to comply with the standards. A provisional license may be renewed each six months for good reason, but not longer than over a period
Also in Montana a limited license may be issued by the state department under certain circumstances for the case of a specific child already in the home, on the basis of a thorough investigation if it appears that continued care in this home would be more conducive to the welfare of the child than removal to another home.

Number and Age of Children As Determinants of Need for License:

In three of the states studied, Arizona, California and Nevada, the licensing laws cover children under the age of sixteen. In Idaho and Oregon the laws provide for the licensing of foster homes caring for children under the age of eighteen. In the remaining three states in the study group, Montana, New Mexico and Washington, no age limit is specified for children for whose care a foster home license would be required and, therefore, the inference would be that all minor children would be covered by the licensing requirement. Ideally the protection afforded by the licensing requirement should be extended to all minor children and not just to those under sixteen or eighteen years of age as is the case in some of the aforementioned states.

In all of the eight states studied the licensing requirement includes one or more children placed in foster homes so that in this respect there is comprehensive coverage.

Length of Care As Determinant of Need for License:

In seven of the states studied there seems to be the
intent in the statutes that a foster home license shall be required of any person operating a family home for the purpose of caring for and maintaining children on a regular basis (whether this be on a 24 hour basis or for only part of a day) in lieu of care in their own home. However, of these seven, Montana provides for the following exemption: persons shall not be required to have a license who accept the care and custody of children on a temporary basis and simply as a temporary accommodation for the parent or guardian or relative of the child. The Washington statute is the only one that specifically specifies that a license shall be required of any operator of a family home providing regular care for a child or children "on a twenty-four hour a day basis or during a period of twenty-four hours a day." Thus it would seem that day care homes would not be required to have a license in this state.

Monetary Consideration As Determinant of Need for License:

In only two of the eight states studied did it seem that a monetary consideration was a determinant of the need for a license. In Montana, a license is required of any person operating a family home for the purpose of caring for or maintaining children and for which care or maintenance he receives money or other consideration of value. The assumption would, therefore, be that a person giving a free home to a child would not be required to have a license. In Nevada the foster home licensing act does not apply to homes in which children are placed by their own parents or legal guardians and where the total cost of care is provided by said
parents or guardians. In the remaining six states studied the licensing requirement applies whether or not the person operating the foster home receives compensation for the care of the child.

Responsibility for Formulating Standards for Foster Care:

The licensing of child-placing agencies and supervision of them by the State Department has a relationship to the licensing of foster homes. If the State Department helps the agencies promote and maintain desirable standards of care and services, then the agencies' foster homes will have standards essential to the adequate care of children. It has been suggested that the formulation of standards should be a project participated in by both agencies and the State Department, since standards imposed by a State agency are never so effective as those that the agencies subscribe to and impose upon themselves. Also participation of the State Health Department in establishing standards relating to the health of children and health services is of the greatest value in increasing knowledge of health resources and health problems.20 According to the information contained in the licensing statutes, Arizona follows these recommendations in formulating standards of child care.

In Arizona it is the responsibility of the State Department of Public Welfare in cooperation with the State Board of Health and with the child welfare agencies under its supervision

20Welch, p.16.
to formulate standards of child care and services to children including care in foster homes.

In Nevada it is the responsibility of the State Department of Public Welfare in cooperation with the Board of Health to establish standards for foster care. The division of responsibility between the two State Agencies is similar in New Mexico since standards of foster care are formulated by the State Department of Public Health (the licensing agency) in cooperation with the Division of Child Welfare Services of the Department of Public Welfare.

In Oregon and California the standards are developed by the State Public Welfare Commission and the State Department of Social Welfare, respectively. In Washington and Montana the standards are formulated by the Child Welfare Division of the Department of Social Security and the Department of Public Welfare respectively.

In Idaho, the Commissioner of Public Assistance is authorized and directed to establish and maintain standards for the operation of licensed foster homes, day care homes and institutions and is to develop the standards in consultation with the superintendent of the Children's Home Finding and Aid Society of Boise, and the superintendent of the Children's Home Finding and Aid Society of North Idaho.

Authority for Investigation and Supervision:

Careful and wise inspection of foster homes is an important and necessary pre-requisite in the placement of children.
In all of the eight states studied the Department of Public Welfare or in the case of Idaho, the head of that Department, (the Commissioner of Public Assistance) or the duly authorized representatives of these respective departments are, by statute, given the right and responsibility for the investigation and supervision (or inspection) of foster homes to assure that the home is suitable to care for children and that it is giving proper care to the children therein and consistently maintaining standards of operation, maintenance and care as provided by rules and regulations governing foster homes.

In Arizona, where only the unsupervised foster homes must be certified, the statute specifies that such homes cannot be certified until an investigation is made by the department of public welfare or by a licensed child welfare agency serving as its representative. Further, the state department or its authorized representative shall visit every certified home as often as is necessary to assure that proper care is given to the children therein.

The Idaho statute stipulates that the Commissioner of Public Assistance or his duly authorized representative shall visit every licensed foster home "semi-annually and as often as appears necessary" to determine that such home is consistently meeting the established standards of maintenance and care. Further it is the duty of the county probation officers where any foster home or day care home is located to cooperate with the Commissioner in making
such visits and investigations.

**Duration of License and Fee:**

Statutory provision regarding the duration of foster home licenses is similar in seven of the eight states studied in that the licenses are in force for one year from the date of issuance, unless sooner revoked or suspended because of willful violation of any provision of the licensing act or failure to maintain the standards of care prescribed by the state department administering the licensing laws. (The statute of the state of Washington does not specify the duration of the license.) In three of the eight states studied, Arizona, California and Washington, there is provision in the licensing statutes for the licensing of agencies engaged in the placement of children. Similarly, these licenses are issued annually in Arizona and California but again the Washington statute does not stipulate the duration of such licenses.

There is no requirement of a fee for the foster home licenses in the eight states studied.

**Enforcement Thru Revocation and Penalties:**

Various means of enforcing the provisions of the foster home licensing statutes would be revocation of license for violations of any of the provisions of the licensing act, setting a penalty for violation of the laws and/or having statutory provision for initiation of litigation against persons or organizations that fail to comply with the provisions of the licensing law.
Five of the states in the study group, Arizona, California, Montana, Oregon and Washington authorize the department of public welfare to revoke foster home licenses for any willful violation of any provision of the licensing act or failure to conform to the rules and regulations governing foster homes. In Idaho, when a child is found being subjected to undesirable influences or where the rules and regulations governing such licensed homes are being violated, the Commissioner of Public Assis-tance may "by order in writing reciting the cause, revoke any such license for cause." The licensing statutes of Nevada make no provision for revocation of license but do provide a penalty for those required to have a license who operate a foster home without a license and also provide for removal of a child from a foster home if the child is found to be subject to undesirable influences or lacks proper or wise care and management." In New Mexico, the Department of Public Health is authorized by statute to suspend or revoke the license issued to any foster home when the Licensing Agency finds "that there has been substantial failure to comply with the provisions of the regulations governing foster homes" or if upon investigation it is found that "any illegal act affecting the welfare of a child receiving care in the foster home has been permitted."

Arizona statutes provide a penalty for the violation of the licensing act in that:

"Any agency, society, association, institution, or person, whether incorporated or unincorporated and the individuals
acting for or in its name who shall carry on the work of caring for children or children and adults or of placing children for care without having first procured a license as a child welfare agency as provided for in this Act, or shall willfully fail or refuse to report as required by the foregoing provision of this Act, or who shall willfully obstruct or hinder the child welfare division of the state department or its institutions, or persons under its control or charge, or any person knowingly or willfully violating any of the other provisions of this Act shall be guilty of a misdemeanor."

California statutes also provide for a penalty for operating without a license.

Any person, association, or corporation that maintains, conducts, or as manager or officer or in any other administrative capacity, assists in maintaining or conducting any institution, boarding home, or other place or the performance of any service specified in Section 1620 of this code without first having secured a license or permit therefor in writing, or refuses to permit or interferes with the inspection authorized in Section 1621 of this code, is guilty of a misdemeanor. 22

The California statute further provides that the district attorney of every county shall, upon application by the State Department of Social Welfare or its authorized representatives, or by an approved and accredited inspection service, institute and conduct the prosecution of any action brought for the violation within his county of any provisions of the Welfare and Institutions Code which related to the licensing of foster care facilities.

Similarly the Washington statutes authorize the Department of Social Security, upon the advice of the attorney general

21 Annotated Code of Arizona, 1941, Chapter 70, Section 517.

22 Annotated Code of California, 1952, Section 1629.
who shall represent the department in the proceeding, to maintain an action in the name of the state for injunction or other process against any person, partnership, association or corporation or any private institution, agency or foster home which gives temporary or permanent care or custody to children or places children for temporary or permanent care or adoption without first having a license from the department or a certificate of approval as a foster home. (Persons related to such children by blood, marriage or adoption are exempt from the licensing requirement.)

Idaho and Nevada exact the most severe penalties for violation of the licensing laws. In Idaho, any person who operates a foster home without first obtaining a license from the Commissioner of Public Assistance, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding $500 or by imprisonment in the county jail for a period not to exceed six months, or by both such fine and imprisonment.

Any person who violates any of the provisions of the Nevada foster home licensing act is guilty of a misdemeanor, and on conviction is punishable by a fine of not less than fifty ($50) dollars nor more than five hundred ($500) dollars, or by imprisonment in the county jail not to exceed six months, or by both such fine and imprisonment.

In Montana any person who conducts or maintains a foster or boarding home, or assists in conducting or maintaining such a home without having first obtained a license is guilty of a mis-
demeanor and upon conviction is punishable by a fine not to exceed One Hundred Dollars ($100).

Oregon and New Mexico make no provision for penalizing persons who violate provisions of the licensing laws.

Right of Appeal:

Of the states studied, only New Mexico and Oregon make statuatory provision for right of appeal from denial, suspension or revocation of a foster home license. The Oregon statute specifies: "Any person affected by a decision or of the State Public Welfare Commission may appeal there from to the circuit court of the county wherein the foster home regarding which such decision or order so made is located by serving notice of such appeal on the administrator of the Commission and filing the same with the clerk of such circuit court within 15 days after the decision or order appealed from. The filing of such notice shall not stay the proceedings of the Commission or affect such order or decision."

Removal of Child:

Arizona and Nevada are the only two states in the study group that have statuatory provision for the removal of any child from a foster home whenever the state department determines that the child is subject to undesirable influences or lacks proper care and management. In such cases the department notifies the county department of public welfare in the county in which the home is located or any agency or institution that has placed the child to take the necessary action to remove the child and arrange
for its care.

Records of Registers of Placement:

California is the only state of those studied that specifies in the licensing statute that every holder of a permit or license shall maintain a register setting forth identifying information about each child under the age of sixteen, received or cared for, and pertinent facts about his nearest of kin. In the other states requiring foster parents to keep such records or registers of children under care, the requirement is set forth in the rules and regulations governing foster homes, rather than in the licensing statutes.
CHAPTER III

STANDARDS FOR FOSTER HOME CARE

In this chapter the standards for foster home care evolved by the states in the study group will be delineated. However, the author obtained the standards of only six of the eight states and, therefore, those of Washington and Idaho are not included in the presentation. It is interesting to note that of the eight states studied, Washington is the only state that in the statutes relating to foster home licensing specifically defines, though broadly, the required standards for foster care. These statutory requirements reflect the aims and objectives for foster care that in the other states are defined and amplified in the standards themselves rather than in the statutes. The Washington statute stipulates that an applicant for a certificate for foster homes "must be a person of good character" and that the foster home care of the applicant "must provide adequately for the protection of the health, safety, physical, mental and moral well-being of the child or children to be cared for by the applicant."

It was noted that in general the emphasis in the foster home standards was on three principal concepts directly related to
the welfare of children receiving foster care, namely, 1) the qualifications of the foster family; 2) requirements regarding the physical aspects of the foster home itself; and 3) the care of the foster child. In the foster care standards of the six states reviewed by the writer it was observed that there were many similar requirements set forth as a basis for the selection of foster homes and considered as essential to insure the adequate care and protection of children being cared for away from their own homes. However, there were also variations in some of the provisions of the standards as well as variation in the stress placed upon these requirements in the different state standards, some states making them absolute requirements and others merely acknowledging the desirability of such conditions and/or indicating exceptions to the requirements enunciated in the standards.

Qualifications of Foster Family:

The foster care standards formulated by the various states reflect a recognition of the fact that foster home care involves more than feeding and housing a child and that it takes very special kinds of persons to be good foster mothers and foster fathers and that not all good parents nor all good homes meet these requirements.

Five of the six states specify in the standards that the foster family be of good character. California standards make no reference to the integrity of the foster family possibly assuming that this is so basic a requisite for foster parenthood that it
would be superfluous to mention it. Oregon, Montana and Nevada standards add that foster parents should be persons "of good habits." Montana and New Mexico standards specify that the foster parents should be "responsible, emotionally stable people."

All six state standards agree that it is desirable that the foster family be composed of both a father and a mother in order to give the child a normal family experience. California standards stress the fact that it is important that the family group of mother and father be complete particularly in twenty-four hour care. In day care the foster father assumes less importance in the life of the foster child. California and Nevada standards qualify the requirement that there be both a father and mother present in the foster home by adding the phrase "except in unusual situations." In Arizona and New Mexico the homes of widowed, divorced or single women may be licensed as foster homes on the basis of special qualifications and ability to meet the needs of a particular child.

Five of the states emphasize in their standards that there must be a harmonious home life in the foster home since this is essential to give children emotional security and to contribute to the normal growth and development of children. Arizona standards make no reference to this important qualification of a foster family.

The standards of all six states specify that all members of the foster family must be willing to accept the foster child as
a member of the family group. The wording in the Montana standards regarding this point varies from that of the other standards and yet the intention is the same since this section of the standards reads as follows: "The foster parents shall be assuredly kind responsible people who care about children, and of whom it can be said without question that they will safeguard the child's interests as they would their own,--in emergencies as well as in everyday living."

Another qualification which all six states considered necessary in foster parents was "an understanding of children, their needs and their problems." In the California standards this was phrased: "The foster parents must have some insight into a child's mind and feelings and know how to help him."

Five of the six states emphasize in their standards the responsibility of the foster parents and agency for preserving and strengthening the child's relationship with his own family whenever this is possible or advisable. Arizona standards do no mention this important consideration.

The standards of Arizona, Montana and Nevada specify that the household of the foster home must not include persons whose presence would be detrimental to the health and welfare of children. Arizona's phrasing of this requirement is that "all members of the household should be persons who are interested in the welfare of children under care and they should be of good character." This requirement is amplified further in the standards
of four of the states, namely California, Nevada, New Mexico and Oregon in that there is a stipulation that foster homes must not provide room and board on a commercial basis for adults, or commercial care of aged, maternity or convalescent patients (mentally or physically ill or handicapped). The standards of Nevada and Oregon set forth the foregoing requirement unequivocally whereas the standards of California and New Mexico exact this requirement "except in unusual circumstances." California and Oregon and Nevada standards specify that full time foster care and day care of children are each specialized services which should not be combined with each other.

The standards of the six states specify that the members of the household of the foster family shall be in good physical and mental health so as not to jeopardize the health or interfere with the care given the foster children. California is the only state, however, that suggests that it is desirable that the members of the foster family or any other child caring personnel have annual physical examinations including chest x-rays. Further in this state there is the stipulation that there be no mentally defective or incompetent person in the family either child or adult and that no mentally defective or epileptic children may be accepted for foster care. In California, the responsibility for licensing homes for children of this type rests with the State Department of Mental Hygiene. New Mexico standards provide that the fact that all members of the household of the foster family
are in good physical and mental health and free from communicable disease should be verified during the initial study of the home "and at any time thereafter when indicated by consultation with the family physician and by medical examinations of the foster parents and any other members of the household for whom examinations seem indicated." Oregon standards require that a health report signed by a licensed physician must be furnished by all members of the foster family household. This state's standards further stipulate that any person who joins the household subsequent to certification shall be in good physical and mental health and shall furnish a health report signed by a licensed physician.

None of the six state standards set limitations as to a minimum or maximum age for foster parents. A desirable age is described in only very general terms that would allow for a wide latitude of individual interpretation. For example, New Mexico standards suggest that foster parents "should not be too old to have sufficient vitality and flexibility to deal with the problems of childhood." California standards require that foster parents be "of suitable age, education and temperament to care for children." Arizona's standards specify that foster parents shall be "young enough in ideas and interests to have a sympathetic understanding of children's activities and to enjoy having them in the home." Nevada standards indicate that "the age pattern of the normal family group will be taken into consideration in the placement of children in the foster home." Montana and Oregon standards
make no reference to what would be considered a suitable age for foster parents.

All of the six standards have provisions regarding the religious affiliation and practice of children placed in foster care. However, only the standards of New Mexico and Nevada state definitely that children should be placed in homes of their own religious faith. This is true in Nevada when the religious affiliation of the child is known or a preference indicated. Arizona and Montana standards are not quite as definite or forceful in this respect in that in Arizona children are to be placed in foster homes of their own religious faith "whenever possible." Montana standards suggest that it "is desirable that the foster parents and children be of the same or similar religious faith." The standards of Nevada, New Mexico, Oregon and California it is required that the foster parents provide opportunity for the child to attend religious services and to obtain religious training in accordance with his religious affiliation or the expressed wish of the parents of the child. California standards add "when this is impossible because of the absence of the denomination in the community or other causes, the religious training offered must have the approval of the child's parents or the person responsible for placement. In day care where the primary responsibility for the child's religious training remains with his own family, the foster mother must respect the child's religious beliefs and be observant of his religious training as to holidays, church attendance, diet
etc... Arizona standards require foster parents to "encourage children in the religious faith desired by the parents of the child" so the implication would be here too, as in New Mexico, Oregon and California the foster parents would be expected to provide the opportunity for the child to attend religious services in accordance with his religious affiliation.

The standards of all six states stipulate that the income of the foster family must be sufficient to provide an adequate standard of living for the family exclusive of income derived from caring for children. Only the standards of Arizona and Montana provide for exceptions to this ruling. Arizona standards with regard to this matter read: "The foster family shall have income and resources adequate to care for its own needs to such a degree that undesirable attitudes are not present. Except in unusual circumstances there shall be sources of income other than public aid or private charity. Montana standards recognize and accept the fact that day care is often a source of income for a foster family.

The standards of California, New Mexico and Oregon definitely specify that the foster mother may not be employed outside of the home. Nevada standards qualify this requirement somewhat by stating that the foster mother may not be employed outside of the home. In Montana, the foster mother of grade school or pre-school children may not be employed outside of the home. Employment of foster mother's of older children is considered to
be dependent upon the maturity of the child.

Requirements regarding the Foster Home:

The standards of all six states require that the foster home be located in a neighborhood conducive to the welfare of children. The standards of New Mexico, Nevada and Oregon amplify this requirement by suggesting that it is desirable that the foster home be accessible to schools, churches and medical facilities. Arizona standards make no reference to the importance of accessibility of medical facilities to the home but consider that the home should be accessible to schools, churches, libraries and recreational facilities. California standards do not mention the importance of accessibility of the foster home to churches but suggest that the home should be accessible to schools and medical care. In addition the standards of California and Nevada require that the home be reasonably accessible to visits from parents and the licensing agency.

The standards of all six states require that the foster homes conform to housing sanitation and fire laws and regulations of the state and its political subdivisions.

All of the standards emphasize the importance of there being adequate space for the family and the foster children in the foster home and sufficient space and facilities for indoor and outdoor play appropriate to the child's age. Requirements regarding sleeping arrangements for the foster children are detailed in all of the standards and there is some slight variation among the
states in the rulings regarding this matter but the emphasis in all is on desirable sleeping accommodations and that the children be within call of an adult at night.

Care of the Foster Child:

All of the six states recognize the importance of children in foster homes being given individual attention and that the foster parents have time to give it and, therefore, limitations are imposed regarding the number of children that may be accepted for care at any one time by any one foster home. The prevailing idea is that the number of children cared for in the home shall approximate a normal family. Five of the states, California, Montana, Oregon, Nevada and New Mexico limit the number of children to be cared for at any one time, including the foster parents own children, to six. Arizona standards limit the number to five children. Five of the states, Arizona, Montana, Nevada, New Mexico and Oregon provide for an exception to this ruling in order to keep a large family together. In Montana in the event that more than six children are being cared for in a foster home, the standards for a day care center or a group home (a small institution) must be met. Oregon also makes an exception to this regulation when the home is meeting some special need. Nevada permits a family to care for more than six children "when the home has facilities and personnel to care for more than the usual number." Arizona permits an exception to the ruling regarding the maximum number of children to be cared for "when the home has been develop-
ed for special temporary care, observation or training purposes under professional supervision." California allows for exceptions to the ruling only with special approval of the licensing agency.

Because of recognition of the fact that very young children require a great deal of care and especially need the affection and security given by parent persons, all of the six states set limitations on the number of infants or very young children that may be cared for in a foster home. The standards of Arizona, California, Montana, Nevada and New Mexico provide that no foster home may care for more than two infants under two years of age, including the foster parents own children. The Oregon ruling is "no more than two children under three years of age. Arizona and Montana make an exception to this regulation if the children are of the same family. California, New Mexico permit more children than two under two to be cared for in a foster home if there are more than the usual number of adults to care for the children. However, California standards specify that no more than four infants may be cared for in any home at any one time except under unusual circumstances and with special approval of the State Department of Social Welfare. Montana also limits the number of preschool children that can be cared for in a foster home to three. In Oregon the number of children under care in a home certified for emergency and temporary care may not exceed nine and limitations as to age, sex and number of children accepted for care is to be determined by the accommodations of the home, the experience
and skill of the foster mother in providing care for children and the time devoted to such work by her and other adults in the household.

The standards of all six states stress the desirability of the child being given a pre-placement physical examination or as soon after admission to the foster home as possible. There is also emphasis on the child receiving good physical and medical care and having his nutritional needs adequately met.

The standards of four of the states, California, Nevada, New Mexico and Oregon stipulate that provision must be made for the foster child's regular school attendance in conformity with the state law. California standards further suggest that the child should be encouraged to obtain the maximum amount of education possible in keeping with his ability and in consideration of possible future vocations. Oregon standards specify that a foster child shall not be required to do work which would interfere with his school progress. In the two remaining states, Arizona and Montana even though there is no specific mention of the fact that the foster parents must provide for the child's regular attendance at school, the inference is that this would be expected since in Arizona it is required that the foster home be accessible to schools and in Montana that the home be located in a neighborhood conducive to the welfare of children and this would necessarily include an opportunity for the child to have his educational needs met.
All of the six states provide in their standards that there must be adequate provision for the supervision of the foster children at all times and that they must be left in the care of a competent adult whenever the foster parents are absent from the home. California standards require that if the foster parents are gone over night or longer they must inform the agency as to who will be in charge of the children.

Five of the six state standards (Arizona excluded) set forth regulations regarding the disciplining of foster children. California standards definitely stipulate that corporal punishment is not permitted. Oregon, that severe or harsh punishment shall not be administered and New Mexico standards specify that foster parents must not use any methods of discipline which are cruel or injurious physically or emotionally. In this latter state the expectation is that the foster parents should give the child individual attention, training and discipline necessary to normal development. Nevada standards specify that discipline should be administered according to the needs of the individual child and for the purposes of teaching. Montana standards expect that the foster family shall give evidence of knowing when they need to call upon the child's own parents or the licensing agency or some other resource when the child's behavior is so difficult that some steps beyond the usual measures within the family group are necessary. California expects foster parents to consult with the licensing or child placing agency for advice on problems of
behavior in children.

In this chapter consideration has been given to the foster care standards evolved by six of the states in the study group regarding qualifications of the foster family, requirements regarding the physical aspects of the foster home itself and the care of the foster child.
CHAPTER IV

SUMMARY AND CONCLUSIONS

This final chapter will present a summarization of the findings with regard to the laws and standards pertaining to the licensing of foster homes in the eight Pacific coast states studied. Also the basic elements or characteristics of a good licensing law as conceived of by Miss Bess Craig, Regional Representative of the United States Children's Bureau and Miss Virginia Fenske, consultant for the Department of Child Welfare of the state of Washington will be enunciated and used as a criteria for evaluating the degree of protectiveness to children being cared for away from their own homes which the licensing statutes in the eight states provide.

Miss Craig suggests that one basic element in a good licensing law is that it should state definitely which state department is to be responsible for securing information about the foster home and that this duty may be delegated to the Health Department or the Department of Welfare. Further that one agency should be responsible for accepting the application, making the home study and issuing the license. In seven of the eight states
studied the department of public welfare is the licensing agency and in the other state, New Mexico, the Department of Public Health is the licensing agency. In Arizona and California and Washington authority to license foster homes is delegated by the state department of public welfare to licensed child-placing agencies and Oregon exempts from certification foster homes which receive children from a licensed child-caring agency. However, in Idaho, Montana, Nevada and New Mexico foster home licenses must be issued by the state department so that not in every instance would the agency which accepted the application, and studied the home be issuing the license. Probably in the case of these latter four states, the license would be issued by the state department on the recommendation of the agency that made the investigation of the foster home.

A second suggestion of Miss Craig's for a good licensing law is that the statute not be specific as to physical requirements for the home but that these should rather be determined by the individual placement agencies who should then publicize their requirements. In all of the eight states studied the physical aspects of the foster were not made a part of statuatory requirements but were rather delineated in the foster home standards of the individual states.

A third suggestion of Miss Craig was that the licensing law should require that a foster child be placed in a home of his own religious affiliation. In none of the states in the study
group was this a statuatory requirement; however, the standards of New Mexico and Nevada state definitely that a child should be placed in a home of his own religious faith. Arizona standards merely suggest that children be placed in foster homes of their own religious affiliation "whenever possible." Montana standards indicate the desirability of foster parents and children being of the same religious faith. (Standards of Idaho and Washington were not obtained).

A fourth suggestion of Miss Craig was that the designated licensing authority should work in cooperation with the state fire marshall, department of health, department of education and attorney general. All of the eight states studied seem to work in cooperation with the first three aforementioned parties or organizations; however, only in the statutes of California and Washington is there an indication that the district attorney of every county in California, upon application by the State Department of Social Welfare or its authorized representatives, shall institute and conduct prosecution for any action brought for the violation of laws relating to the licensing of foster homes and that in the state of Washington, the attorney general shall represent the Department of Social Welfare to maintain an action in the name of the state against persons or corporations violating the provisions of the licensing laws. However, it might be presumed that in the other six states, even though there is not specific reference to this matter in the statutes or standards that the various state
departments charged with the responsibility for administering the licensing laws, might very well enlist the cooperation of their respective attorney general in the event that legal action were necessary because of violation of the licensing statutes.

One of the characteristics of a good licensing law, according to Miss Fenske is that it should be definite in its provisions, so that the extent of its jurisdiction is understood; all terms should be clearly defined. At the same time the law should be flexible to permit of sound administration. It would seem that the licensing laws of seven of the eight states met this requirement in that the authority and responsibility for administering the law was clearly designated as were provisions for delegating this authority to other licensing child-placing agencies. However, in the case of the eighth state, New Mexico, the functions of the Department of Public Welfare and the Department of Public Health were not as clearly defined and it seemed that there was some overlapping in the responsibilities of the two departments and that a closer integration or cooperation between the two state departments would make for sounder administration.

A second characteristic of a good licensing law, according to Miss Fenske is that the law should be broad enough to protect all children coming under the care of children's agencies and institutions and of independent foster homes with no exceptions. All of the states in the study group apparently recognized the fact that one child needs protection as much as several children do and
the provisions of the laws were devised accordingly. In seven of
the eight states there seemed to be the intent in the statutes
that a foster home license would be required of any person operat­ing a family home for the purpose of caring for and maintaining
children on a regular basis in lieu of care in their own home.
However, in Montana persons are not required to have a license who
accept the care and custody of children on a temporary basis and
simply as an accomodation for the parent or guardian or relative
of the child. Thus it is conceivable that adequate protection
might not be given all children because of this statuatory exemp­
tion. Also in Washington since a license is only required of any
operator of a family home providing regular care for children on a
twenty-four hour a day basis, it would seem that day care homes are
not required to have a license and that, therefore, children in
day care might not be given adequate protection. Information from
the Arizona Department of Public Welfare revealed that although the
Placement Act requires the licensing of unsupervised foster homes
(commercial boarding homes used directly by parents) the department
has never had sufficient staff to provide this service in the more
populous areas, though they recognize it as their responsibility.
In three of the states studied, Arizona, California and Nevada, the
licensing laws cover children under the age of sixteen. In Idaho
and Oregon the laws provide for the licensing of foster homes car­
ing for children under the age of eighteen. In the remaining three
states in the study group, Montana, New Mexico and Washington, no
age limit is specified for children for whose care a foster home license is required, and, therefore, the inference would be that in these three states all minor children would be covered by the licensing requirement. Of course, ideally, the protection afforded by the licensing requirement should be extended to all minor children and not just to those under sixteen or eighteen years of age as is the case in some of the aforementioned states. In only two of the eight states studied did it seem that a monetary consideration was a determinant of the need for a license. In Montana, a license is required of any person operating a family home for the purpose of caring for or maintaining children and for which care he receives money or other consideration of value. The assumption would, therefore, be in this state that a person giving a free home to a child would not be required to have a license. In Nevada, the foster home licensing act does not apply to homes in which children are placed by their own parents or legal guardians and where the total cost of care is provided by said parents or guardians. Such a provision would exclude from protection children placed independently by their parents. In the remaining six states studied, the licensing requirement applies whether or not the person operating the foster home receives compensation for the care of the child.

A third characteristic of a good licensing law in the opinion of Miss Fenske is that it should set a penalty for violation, with provision for litigation when an organization does not
meet the State standards and that the penalty clause should be stringent enough so that when prosecution is necessary it will be effective. **A fourth characteristic of a good licensing law**, according to Miss Fenske is that the law should provide not only for the rejection of a new application but also for discontinuance of any facility that does not meet State standards. In addition, it should provide that the applicant may request a hearing by the courts on decisions made by the licensing agency.

Five of the states in the study group, Arizona, California, Montana, Oregon and Washington authorize the department of public welfare to revoke foster home licenses for any willful violation of any provision of the licensing act or failure to conform to the rules and regulations governing foster homes. In Idaho, when a child is found to be subjected to undesirable influences or where the rules and regulations governing such licensed homes are being violated, the Commissioner of Public Assistance may "by order in writing reciting the cause, revoke such license for cause." The licensing statutes of Nevada make no provision for revocation of a license but do provide a penalty for those required to have a license who operate a foster home without a license and also provide for removal of a child from a foster home if the child is found to subject to undesirable influences or lacks proper or wise care and management. In New Mexico the Department of Public Health is authorized by statute to suspend or revoke the license issued to any foster home when the Licensing Agency finds
that there has been substantial failure to comply with the provisions of the regulations governing foster homes or if any illegal act affecting the welfare of a child receiving care in the home has been permitted. The states of California and Washington provide for legal action against any persons or associations that violate the provisions of the licensing act and in California such a person is guilty of a misdemeanor. Idaho and Nevada exact the most severe penalty for the violation of the licensing laws, since the person guilty of such a violation is guilty of a misdemeanor and may be punished by a fine or imprisonment or both. (See Chapter II). In Montana a person guilty of a violation of the licensing law is considered to be guilty of a misdemeanor and upon conviction is punishable by a fine. Oregon and New Mexico make no provision for penalizing persons who violate provisions of the licensing laws. Of the states studied, only New Mexico and Oregon make statuatory provision for right of appeal from denial, suspension or revocation of foster home license.

Thus it can be seen from the above evaluation of the licensing laws of the states in the study group that although adequate and comprehensive protection of all children in foster care is not insured by the licensing statutes of these eight states, there would certainly seem to be an earnest and sincere effort in this direction on the part of each of the states.
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