A Comparative Study of Laws and Standards Pertaining to the Licensing of Foster Homes in Eight Southern Atlantic Seaboard States

Eugene Albert Kroschel
Loyola University Chicago

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A COMPARATIVE STUDY OF LAWS AND STANDARDS
PERTAINING TO THE LICENSING OF FOSTER HOMES
IN EIGHT SOUTHERN ATLANTIC SEABOARD STATES

by

Eugene Albert Kroschel

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

This thesis is a part of a research project undertaken as a group project by six students from the Loyola University School of Social Work. It concerns the present state laws pertaining to the licensing of foster homes in the United States of America.

Groupings of eight states in particular geographic areas were assigned to each of the students participating in this project, since these groupings might be presumed to have more meaningful similarities and differences in laws and standards than might a random selection of states.

This particular thesis will be concerned with the following eight states: Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, and West Virginia. For the purposes of this thesis, these states will be referred to as the Southern Atlantic Seaboard States.

The responsibility of safeguarding the interests of
children receiving care outside of their own homes has long been recognized as a public duty. All of the states have some type of foster home program, yet there exists no model foster home licensing law nor ideal set of standards which prospective foster parents must meet. Therefore, each state, in its own way, proceeds to protect children in need of foster care. This is at once the greatest strength and weakness of such a program, since this would allow a wide variation in services to children outside of their own homes, depending upon the level of development of each state's social thinking and social legislation.

The purposes of this study are:

1) to compare the present state laws pertaining to the licensing of foster homes,

2) to examine standards formulated by authorized powers for the care of children in foster homes.

Information on the views of the United States Children's Bureau as to licensing of foster homes was obtained in an interview with Miss Elizabeth Craig, regional representative of Region V. Miss Craig advised that the Bureau has published no literature on licensing foster homes, but representatives of various state legislatures may consult the
Bureau for an opinion as to what might constitute a good law for their particular state. The Children's Bureau believes that it is the privilege and duty of each state to pass legislation most suited to the needs of that particular state. It is for this reason that no model licensing law has been proposed as ideal for all of the states. The Children's Bureau further believes that the best laws are the broadest laws--those authorizing the placement agencies themselves to establish standards and enforce them.

In this study, the term "foster home" will be interpreted to mean any private home wherein one child or more under the age of twenty-one years, unattended by parents, relatives, or guardian, is provided with food, clothing, and both day and overnight care. As such, the term will include such terms as "work home," "wage home," and "free home" and shall be interchangeable with the term "boarding home."

A further distinction will be made between "agency foster homes" and "independent foster homes." The former are foster homes which have been approved by a state agency or a state supervised agency (a licensed child placing agency). The latter are unsupervised foster homes which have obtained the children through private arrangements with parents.
In the minimum standards of foster homes in each of the states included in this study are many rules, regulations, and requirements which must be observed. For this reason, the terms "rules and regulations" and "requirements" will be used interchangeably with the term "standards" in this study.

For the purposes of this study, the term "Department" will be interpreted to mean the State Department of Public Welfare. When referring to the state of Virginia, the term "Board" will be interpreted to mean the State Board of Welfare and Institutions.

Both primary and secondary sources will be used in this study. The foster home programs of the Southern Atlantic Seaboard States will be presented as they are revealed in primary sources—the present state laws themselves. Each state's law regarding the licensing of foster homes will be analyzed. Research on these laws was done at the Law Libraries of both Loyola University and the University of Chicago, and the library of the Chicago Bar Association. The State Departments of each of the Southern Atlantic Seaboard States cooperated upon the request of the writer and sent material pertaining to the licensing of foster homes in the particular state.
Wherever available and practical, standards required of foster parents will be examined. Additional literature in the field has been consulted for background material in history, theory, and present practices relating to foster home care.

The presentation of this thesis will consist of a chapter dealing with the comparative analysis of the foster home licensing laws of the Southern Atlantic Seaboard States, a chapter dealing with a comparison of the minimum standards governing foster homes in these same states, and a final chapter dealing with the conclusions based upon the findings of the study.
CHAPTER II

AN ANALYSIS OF FOSTER HOME LICENSING LAWS
OF THE SOUTHERN ATLANTIC SEABOARD STATES

State Licensing Authority

Each of the Southern Atlantic Seaboard States has a functioning foster home program. Each of these states, except South Carolina, has a law requiring and regulating the licensing of foster homes. In the various states, these laws are found in various sections of the statutes. In Delaware, Georgia, and West Virginia, there are laws dealing specifically with the licensing of foster homes. The other four states include the licensing of foster homes in laws requiring licenses of institutions caring for children.

By requiring licenses for foster homes to be secured from specific governmental bodies, the states, in effect, entrust the licensing authority to these bodies. Four of the states delegate all licensing authority to their respective State Departments in charge of public welfare. Virginia delegates
this authority, ex officio, to the Commissioner of the State Board of Welfare and Institutions. In Georgia, county welfare departments of counties over the three hundred thousand in population are the sole licensing agencies. In order to retain some control, the Department of Public Welfare of Georgia either approves or disapproves homes for the care of children, after a foster home study is made by a representative of the County Welfare Department. In Florida, in addition to the State Department of Public Welfare's license, boarding homes in Pinellas County providing care for three or more children must have permits issued by a local licensing board (of which the Director of the Pinellas County Health Department is Chairman). The writer was unable to determine why this particular county was singled out for such procedure.

Although at present there is no licensing law for foster homes in South Carolina, a foster home program is being carried on. Each agency is responsible to the Children's Bureau of South Carolina which acts as guardian of all dependent children. Each agency develops and maintains its own standards. At the present time, many agencies are working together towards securing a licensing law.  

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1Information in a letter to the writer from Mrs. Deborah M. Southerlin, Chief, Child Welfare Division, South Carolina State Department of Public Welfare, December 6, 1954.
Definitions in Foster Home Licensing Laws

In none of the foster home licensing laws of the Southern Atlantic Seaboard States is the term "foster child" defined directly. A determination can be made as to who is considered a foster child, however, by examining 1) in Delaware and West Virginia, the section of the law which deals with the definition of a boarding home, 2) in Florida, Georgia, Maryland and North Carolina, the section which states who shall obtain a foster home license, and 3) in Virginia, the section which grants the Board of Public Welfare the right to accept children for placing in homes or institutions. In the sections of these laws, foster children or dependent children are described. Foster children are often dependent children, and, as such, are covered by many laws pertaining to dependent minors.

Of the seven states having licensing laws, only two of them define the term "foster home." The state of Virginia defines a foster home as a "place of residence of any natural person in which any child, other than a child by birth or adoption of such person, resides as a member of the household." The state of Delaware, in its definition, stresses

2Code of Virginia (Charlottesville, Va., 1950), Title 63, Chapter 11, Section 232.
two things—that the "person, association, agency, or organization" advertises himself or itself as conducting such a boarding home and that the keeper has custody or control of one or more children, under the age of eighteen, unattended by parents or guardian, "for the purpose of providing such child or children with care, food, or clothing for compensation."3 In the state of West Virginia's definition of an "unsupervised foster home," by omitting references to the absence of agency supervision, the essential definition of a foster home is given as "any family home...in which one or more children under eighteen years of age, separated from parents or guardian and not related by blood or marriage to the person maintaining the home, are received, cared for and maintained for compensation, or otherwise."4 The other Southern Atlantic Seaboard States use the terms "foster home" and "boarding home," but no definitions are given.

Homes Required to be Licensed

Not all of the foster homes in the Southern Atlantic Seaboard States are licensed. Four of the states (Florida, 

3 Delaware Code Annotated (Brooklyn, New York, 1954), Title 31, Subchapter III, Section 341.

4 Public Welfare Law of West Virginia, Chapter 49, Article 2, Section 9.
Georgia, Maryland, and North Carolina) require licenses of all foster homes, but the other three states (Delaware, Virginia, and West Virginia) license only independent foster homes. In the state of Delaware all boarding homes in the state are required to obtain licenses, but it is in the statutory definition of "boarding home" that the state exercises its control over independent foster homes. "Homes in which children have been placed by any child placement agency, properly licensed to place children in this State shall not be regarded as "boarding homes."5 Independent foster homes as such are not mentioned in the law. Foster homes of licensed child placing agencies in Virginia are exempt in the law from having to obtain licenses. Correspondingly the intent of the law is the same in West Virginia since only unsupervised foster homes are required by law to obtain a certificate from the state department.

Application For Licensing

Although the application processes for licenses differ in some respects in each of the states, there are also similarities. All of the state statutes require that the pros-

5Delaware Code Annotated (Brooklyn, New York, 1954), Title 31, Subchapter III, Section 341.
pective foster parents themselves apply for a license from the specified licensing authority. The laws of all the states require that investigations of the prospective foster homes be made. In all of the states, a representative of the licensing authority attempts to ascertain, in accordance with reasonable standards, that the individual homes meet the physical, social, psychological, moral, educational, and religious needs of the average child. In Florida the law requires, in addition, that the physical aspects of the prospective foster home be inspected by a representative of the state board of health.

Religious Consideration

Religious affiliation of the child, the natural parents, and the foster parents, is given consideration in the laws of only two of the Southern Atlantic Seaboard States--Maryland and West Virginia. In Maryland the law states that any child placing authority "shall whenever possible give preference in the placing of said minors with persons of the same religious belief as that of the minor or his parents, unless the parents

6The statutes of each individual Southern Atlantic Seaboard State delegate the responsibility of establishing reasonable minimum standards for foster home care to the foster home licensing authority in the state.
specifically indicate a different choice."7 West Virginia law states that "The department in placing any child in the care of a family...shall select as far as practicable a family holding the same religious belief as the parents or relatives of the child."8

Foster Home License Issued

Virginia and West Virginia are the only states which, in the licensing laws, include regulations regarding the content of the actual license (in West Virginia it is called a certificate). Virginia law provides that the Commissioner (of the State Board of Welfare and Institutions) may prescribe certain "reasonable limitations upon the activities and services of any licensee, including limitations relating to the race, sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services, and facilities to be employed.


8Public Welfare Law of West Virginia (Charleston, W.Va., 1952, Chapter 49, Article 2, Section 1.)
Such limitations and standards shall be specified in each license and renewal thereof.\textsuperscript{9} However, the Commissioner must conform to and be guided by the general standards and policies prescribed by the State Board. The law of West Virginia requires that the certificate show the names of the persons authorized to conduct the home, its exact location and the number of children that may be received and cared for at one time. This law specifically states that no certified foster home shall receive for care more children than are specified in the certificate. In the other Southern Atlantic Seaboard States such limitations are regulated by the minimum standards established by the licensing authority in the particular state rather than by the law itself.

The various statutes of the Southern Atlantic Seaboard States differ in regard to provisions of the foster home licenses. Five of the states (Delaware, Florida, North Carolina, Virginia, and West Virginia) define the duration of the license as one year. Three of these state (Florida, Virginia, and West Virginia) provide that the license may be renewed or extended at the end of this period, but the

\textsuperscript{9}Code of Virginia, Title 63, Chapter 11, Section 239, Paragraph (a).
The statutes of Georgia and Maryland do not specify the duration of the license. The state of Florida provides that the license be issued without charge; nor do any of the other states mention any charge for the license, in their laws. Florida statutes also require that the license shall be kept readily available by the licencee; none of the other state laws mention this.

An interesting variation in licensing is a provision in the Virginia state law to the effect that, "Delay in acting on application or notification lawfully permits the applicant to engage in the operations or activities for which the license is desired, until the Commissioner of the Board has taken final action and notified the applicant thereof,"\textsuperscript{10} which should furnish additional impetus to the child welfare agencies to complete home studies as soon as possible after application.

Virginia statutes also provide that a provisional license may be issued (not to exceed six months) if the applicant is temporarily unable to comply with all of the requirements of the law. A provisional license in renewable, but no one can operate under such a license longer than two years as

\hspace{1em}^{10}\textit{Ibid.}, Section 237.
stated in the law.

**Use of Injunction**

Injunction against operation of foster homes without a license is provided for in the laws of only three states—Florida, Maryland, and Virginia. Each of these states delegates the responsibility of petitioning the court, for such an injunction, to a particular power. In Florida, the power is the state welfare board; in Maryland it is the Director of the State Department of Public Welfare; in Virginia it is the Commissioner of the State Board of Welfare and Institutions. In all three states, the petition must be brought before the circuit court, sitting in equity, in the county or city in which the alleged violator is located or has an established place of business. These proper courts of record have the jurisdiction to enjoin the operation of any foster home operated without a license required by law.

**Right of Appeal**

The state of Virginia provides in its laws that should a license be denied an independent foster home by the Commissioner, the foster parents have the right of appeal to any court of record of the county or city in which the residence of the foster parent is located, provided that the Commissioner of the Board be informed of the intention to appeal, within
thirty days after the foster home license was denied. During the time of the appeal there may be no criminal prosecution or injunction brought against the foster parent for operation without a license.

In Maryland, state law provides any authorized placement agency the right to appeal the state department's decision regarding issue of a foster home license. First the appeal may be taken to the State Department of Public Welfare; if satisfying action is not taken by the Department, the appeal may be taken to the circuit court and thence to the court of appeals if relief is not given by the Department. While the matter is pending before a court, the care, custody, and control of any child involved is under the discretion of the court.

**Supervision Required**

Supervision of independent foster homes is provided for in the licensing laws of two states studied--West Virginia and Virginia. A section of the West Virginia law states, "The state department or its authorized agent shall visit every certified foster home as often as is necessary to assure that proper care is given to the children."\(^{11}\) Since only

\(^{11}\) *Public Welfare Law of West Virginia*, Chapter 49, Article 2, Section 11.
unsupervised foster homes under West Virginia law must become certified by the state, this law, in effect, causes all foster homes in the state to be supervised. A section of Virginia law pertaining to supervision states that before placing a child in a home, which is not licensed as a children's home, the child placing agency shall cause a study as to the suitability of the home to be made first, and after placement shall cause such home and child to be visited as often as necessary to protect the interests of such child. The following paragraph of the same section states that every child placing agency which places any child in a children's home which is not licensed, and not required to be licensed under this chapter, shall maintain such supervision over such home as shall be required by the standards and policies established by the Board.

Delaware and West Virginia statutes require foster parents of independent foster homes to keep records of foster children under care in the home. In both states, the records are required to contain information pertaining to the care and status of the children and are to be in such form and manner as are prescribed by the state department.

12Code of Virginia, Title 63, Chapter 11, Section 242.
While the West Virginia law does not state how often the reports are to be made, the Delaware law specifies that the reports are to be submitted "at such time as is required by the Department."\textsuperscript{13}

\textbf{Removal of Child}

Only Virginia and West Virginia have laws regarding the removal of a child from an undesirable independent foster home. Virginia law provides that the Commissioner may order any child, subject to "unwholesome influences or to neglect or mistreatment,"\textsuperscript{14} to be removed from the present home in which he is placed and the Commissioner may further order arrangements to be made according to his approval. The West Virginia law provides that upon finding a child in an independent foster home where the child is subject to "undesirable influences or lacks proper or wise care and management,"\textsuperscript{15} the state department shall notify the county department of the county in which the child is living to

\textsuperscript{13}\textit{Delaware Code Annotated}, Title 31, Subchapter III, Section 342.

\textsuperscript{14}\textit{Code of Virginia}, Title 63, Chapter 11, Section 248.

\textsuperscript{15}\textit{Public Welfare Law of West Virginia}, Chapter 49, Article 2, Section 12.
take necessary action to remove the child and arrange for his care.

Revocation of License

Revocation of foster home license is provided for in the laws of three states only—Florida, Maryland, and Virginia. Each of these laws differs slightly. Florida's law provides that revocation of license may be brought about by order of the State Welfare Board for violation of the regulations of this board governing the activities of the licensee. Maryland law provides that a license may be revoked or suspended by the Department only for an alleged violation of the provisions of the licensing law or of the license itself. Virginia law similarly provides that the Commissioner of the Board may revoke or deny the renewal of the license of any independent foster home which violates any provisions of the law or fails to comply with the limitations and standards set forth in its license.

Right of Appeal

Revocation of foster home license may be appealed in three of the Southern Atlantic Seaboard States—Florida, Maryland, and Virginia. The three state laws differ, however, in their approach to the subject. In Florida, if the order
of revocation is not complied with, within a reasonable time, the state welfare board may apply, to a court of equity having jurisdiction over the foster home, to have the case heard. The empowered court grants such relief, mandatory or injunctive, as the case requires. Maryland law provides any authorized placement agency the right to appeal the Department's decision regarding revocation of a foster home license. The appeal may be taken first to the Department; if satisfying action is not taken by the Department, the appeal may be taken to the proper circuit court; thence to the court of appeals if relief is not yet given by the Department. The agency must abide by the decision of the court of appeals. Virginia law provides that upon revocation of license by the Commissioner of the Board, foster parents operating an independent foster home have the right of appeal to any court of record of the county or city in which their residence is located, provided that the Commissioner be informed of the intention to appeal within thirty days after the foster home license has been revoked. For the duration of the appeal, the foster parents are not liable for any further prosecution by law—by reason of not having a license during this interim period.
Penalties for Violation of Laws

Four of the Southern Atlantic Seaboard States have laws which provide penalties for violation of the provisions of the foster licensing laws. Delaware, Maryland, and North Carolina term such violations "misdemeanors" and establish penalties accordingly. All three states provide fines for violators. Delaware's fines are not to exceed one hundred dollars; Maryland's fines are not to exceed five hundred dollars; North Carolina's fines are not to exceed two hundred—all according to law. Laws of the three states also provide sentences for imprisonment of violators. For this law, Delaware's sentences are not to exceed three months; Maryland's sentences are not to exceed one year; North Carolina's sentences are not to exceed six months. Maryland provides as a penalty either a fine or imprisonment, whereas Delaware and North Carolina provide as penalties either a fine or imprisonment, or both.

In the statutes of Virginia there is a provision for a penalty for the operation of a foster home without a license. Each foster parent guilty of such a misdemeanor is punished, upon conviction thereof, by a fine "of not more than one hundred dollars, or by imprisonment for not more than twelve
months, or by both such fine and imprisonment.\footnote{16} The rigorousness of the law is intensified by the provision that every day's violation constitutes a separate offense.

In this chapter the writer has attempted to give an analysis of the way in which foster home licensing laws are embodied in the licensing procedure itself.

\footnote{16Code of Virginia, Title 63, Chapter 11, Section 239, Paragraph (a).}
CHAPTER III

AN ANALYSIS OF THE MINIMUM STANDARDS GOVERNING FOSTER HOMES
OF THE SOUTHERN ATLANTIC SEABOARD STATES

In each of the Southern Atlantic Seaboard States, except South Carolina, the foster home licensing authority is responsible for the development of desirable standards for the care of foster children. Prospective foster homes must meet certain requirements before a license is issued in any of the states studied.

It must be noted here that all of the standards of the various Southern Atlantic Seaboard States were not secured for use in this study. Standards received from Delaware concern only independent foster homes. In Florida, standards for agency foster homes are considered "quite old"¹ and not available for distribution at the present time as they are

¹Quoted from a letter to the writer from Miss Frances Davis, Director of Child Welfare, Florida Department of Public Welfare, December 21, 1954.
being revised. This in itself is encouraging, however, because it suggests that more up-to-date standards are currently being used. In Georgia, each county having licensing authority has the power to adopt individual standards for foster home care, thus the writer of this study deemed it impractical to gather and attempt to synthesize all of this material; however, the standards of the Georgia State Department of Public Welfare were secured. General requirements pertaining to all foster homes were received from Maryland. North Carolina standards for independent foster homes are not included in this study. Since South Carolina has no foster home licensing law, and the individual agencies operate under their own standards, the writer again deemed it impractical to gather and use all of this material; therefore, no South Carolina standards are included in this study. Virginia standards for agency foster homes are omitted in this study as are standards for independent foster homes in West Virginia.

Although the standards of each state differ as to the particulars, they are similar in many ways. A comparison of the standards of each of the states will be made through the three large areas of interest common to all of them:
1) requirements governing the family group and home life, including attitudes and family and household relationships,
2) requirements governing care to be given children, physical health and conditions in the home, and economic security,
3) requirements governing a working relationship with the supervising agency, if any.

Type of Foster Family Sought

Each of the states studied seeks foster parents who are "responsible, wholesome, emotionally stable people of good character and reputation" who have some understanding of child development and wish to contribute to a child's development. However, the states differ much in the qualities which are listed as requirements of the foster family. North Carolina's regulations list only "exemplary moral standards" as necessary for the foster family; the psychosocial aspect of the family's adjustment is not mentioned.

2Requirements For Licensing Independent Boarding Homes For Children, ed. Child Welfare Division, Delaware State Department of Public Welfare (Wilmington, Del.), p.2.
Florida lists "good character" as a requirement of foster parents but stresses, most of all, that there be an adequate number of staff in the foster home. Florida minimum standards include a required ratio of adults having child care responsibilities to the number of children in the boarding home. Other states (Delaware, Virginia, West Virginia) take a mental hygiene viewpoint and put their emphasis upon securing foster families which show positive personality traits, and healthy and satisfying family relationships, or at least potentialities for these characteristics.

Some regulations of the states are restrictive regarding the composition of the foster family. All of the states, except Virginia and West Virginia, limit the number of foster children which can be placed in one foster home. Delaware, Georgia, and North Carolina make exceptions in this respect, however, in order to keep together large sibling-groups in need of foster care. Delaware, Georgia, and North Carolina permit the placement of foster children in families where there are no foster fathers present. Other states give no consideration in the law to this possible circumstance. Georgia is the only state which sets up definite age limits for the foster mother who must be between twenty-five and
sixty years of age. North Carolina and West Virginia require that the foster parents must be "of a suitable age...to care for children"\(^3\) which actually would allow for a wide range of interpretation. The other states make no mention of any age limits for foster parents. Delaware has a unique provision in the licensing of statutes which states "Lack of legal marital status should not necessarily be used as a basis for rejection (of foster home license), but in exceptional cases after the stability of the relationship has been carefully weighed, a license may be issued."\(^4\) North Carolina standards state that no family, while in the process of adopting a child, may be licensed to operate a foster home. In this way either the adoptive or foster child is spared any possible traumatic experiences in regard to security and/or status. Boarders in the foster home are mentioned in the standards of all the states except Maryland and West Virginia. Nowhere in the standards of these two states are boarders mentioned.


\(^4\)Requirements For Licensing Independent Boarding Homes For Children, Delaware State Department of Public Welfare, p. 2.
Only in Florida are foster homes not permitted to have boarders without exception, according to the standards.

Moral and Physical Surroundings Required

Moral training of the child is encouraged in the standards of all the states. All of the seven states, except Delaware, require that the child be given at least the opportunity for religious training of some sort. Georgia standards require that the child be placed in a foster home of a religious faith like to that of his parents. The states further attempt to foster the wholesome development of the child by requiring that the neighborhood in which the prospective foster home is located be conducive to the social welfare of the child and free of questionable influences.

There are other regulations regarding the neighborhood in which the prospective foster home is located. Since regular school attendance is required of all foster children, all standards require that the prospective foster home be located so that the necessary school is accessible. The state of

5 It is to be remembered that the foster home licensing laws of Maryland and West Virginia require that children be placed with foster parents who are of the same faith as the children's parents, whenever this is feasible.
North Carolina gives specific instructions about the location of agency foster homes: "The home shall be located preferably in the country, small town, or on the outskirts of larger town or city. No child shall be boarded in a home in congested section of a city or town." In Delaware and West Virginia, an important factor in the acceptance of the location of the rural foster home is the consideration of its accessibility for supervision.

Living arrangements in the foster homes are also mentioned in the standards of all the states; that is, comfortable and adequate living space must be provided for each child in the home. Delaware and Virginia standards put the emphasis on "homemaking rather than housekeeping," thus showing family relationships to be more important than physical surroundings in the home. Four of the states--Florida, North Carolina, Virginia, and West Virginia--specifically require play space, both indoor and outdoor should be available to the foster


7 Minimum Standards For Licensed Children's Homes For Boarding or Day Care Private Family Homes, ed. State Board of Welfare and Institutions (Richmond, Va., 1949), p. 4.
child. Florida requires, in addition, that there be study space for children of school age.

Consideration of Physical Health

The standards of all of the states studied require a medical statement as to the good health of the prospective foster family. While most of the states require the medical statement from any licensed physician, the state of Florida requires that the examination be made by the State Board of Health, according to law. Only in the state of Delaware is a current health report necessary when the license is renewed annually.

The physical welfare of the foster child is protected by requirements about the type of care to be given. While all of the states mention that adequate physical care must be given foster children, only Delaware charges the foster parents directly with the responsibility of providing or arranging for necessary medical and dental attention: "The boarding home will be held responsible for obtaining medical aid (for the foster child) in case of emergency sickness or accident."8

8Requirements For Licensing Independent Boarding Homes For Children, Delaware State Department of Public Welfare, p. 5.
Delineation of the physical care required for foster children varies with the states studied, but some common items were noted. All of the states except Delaware and Maryland made special reference to the need for a well balanced diet; Florida standards state that menus and food service are subject to inspection and supervision by a representative of the State Board of Health. Florida and West Virginia require the foster home to have certain basic household supplies; these two states plus Virginia also require that each child placed in the home have his own personal toilet articles.

All of the states require that the foster homes comply with all requirements of the local and/or state authorities regarding safety, sanitation, and zoning matters. Several of the states have special regulations regarding refrigeration, milk supply, periodic testing of animals whose products are used for food, ventilation and heat, and lighting.

Regulations as to sleeping arrangements vary from state to state. The ideal arrangement proposed is separate beds and bedrooms for all children, but the different states approach this in the following ways. North Carolina regulations merely require that the sleeping quarters be "adequate," which might allow for a wide variation in interpretation of
this term. Other states give general rules regarding sleeping arrangements, while Florida and Georgia are quite specific and give detailed regulations as to the type of room to be used for a sleeping room for a foster child, the minimum space between beds, etc. Standards of Florida, Maryland, Virginia, and West Virginia require isolation facilities in case of illness or other communicable condition in any member of the foster family household.

**Special Requirements**

Two of the states—Florida and North Carolina—have special requirements in regard to physical care for infants (children under two years of age). Florida standards deal with sleepings arrangements, feeding, and general care of infants. North Carolina standards have requirements regarding the frequency of medical examinations for infants.

The standards of Florida and Delaware contain a special section devoted to requirements governing homes providing special care needed for exceptional or ill children. Delaware standards state that children needing special care may not be placed in convalescent or nursing homes unless the Department gives its permission. Florida standards, pertaining to the foster care of such children, emphasize the necessity of
having adequate, trained personnel, special housing facilities if necessary, and the approval of the local Health Department of the State Board of Health.

**Standard of Living Required**

All of the state standards require the foster family's standard of living to be in keeping with other homes in the given community and with requirements of the agency for the foster child's comfort and health. The Delaware Department of Public Welfare believes that children should not be placed in foster homes in order to alleviate the foster family's need for public assistance or to reduce the amount of assistance needed. The needs of the children, however, are considered paramount and "If, in individual instances, there is evidence that a certain home in need of public assistance meets the need of the child better than any other that can be obtained, the home may be licensed..." As Dorothy Hutchinson points out in her book *In Quest of Foster Parents*, financial incentive is only one factor in motivation for wanting a foster child. Delaware, Georgia, Maryland, and West Virginia

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9Ibid., p. 3.
standards forbid foster mothers from working outside the home. However, exceptions are permitted; for example when "a foster child has made an adjustment in the boarding home for a period of time prior to the foster mother's employment." ¹⁰

Cooperation with Agency Required

Requirements governing the cooperation between the foster parents and any supervising agency may be covered in two main areas—requirements regarding records which must be kept on independently placed foster children and regulations regarding the actual supervision of the child.

Reports submitted to the Department by independent foster parents are substituted for supervision in independent foster homes. The content of such reports are delineated in the standards of four of the states studied. Three types of reports can be distinguished. Delaware merely requires that any changes in the address or composition of the foster family be reported to the Department. Maryland and Virginia require

identifying information to be kept on both the child and his natural parents; a medical record must be kept, as well as the current fee for care of the foster child. Florida requires the records to be kept on regulation forms (provided by the State Welfare Board), as the records also serve as a register of the child at the time of admission into the home. Identifying data as well as information about the child before admission must be obtained. The pre-admission medical certificate is to be attached to each child's record. Changes in addresses of parents, guardians, or other persons responsible for the children must be recorded.

Regulations governing the cooperation involved between worker and foster parents in the supervision of agency foster homes differ in the various states. Only three of the Southern Atlantic Seaboard States discuss such regulations. Georgia's standards discuss the agency's responsibility for arranging visits of natural parents, overnight visits of the child from the foster home, and provision of a substitute in the regular foster mother's absence from the home. North Carolina's regulations merely discuss the number of home supervisory visits required to be made in the foster homes within a certain period. West Virginia standards discuss the use of and
occasions for supervision, the necessity of cooperation of the foster parents in carrying out planning for a foster child, necessity of immediate reporting of any emergencies involving the foster child or foster family, and advisability of cooperation with the agency in working out visits of the natural parents.

The standards and regulations presented above are designed by the various states as a measure of minima to be met by those who hope to care for children in foster homes. They are not to be construed as the optimum amount of services which hopefully such families should be equipped to give to children in their care.
CHAPTER IV

CONCLUSIONS

Although information secured in the preceding study provides no basis for evaluating the effectiveness of existing legislation, some conclusions can be made.

There is great unevenness in the extent to which public welfare agencies have been given responsibility in the area of licensing foster homes. From no participation, as in the state of South Carolina, through unofficial participation, as in the state of Georgia, to full participation, in the other Southern Atlantic Seaboard States, public welfare agencies carry out, in varying degree, the licensing responsibilities assigned them.

Many of the states are aware that laws and standards must be reviewed occasionally and changed or revised in order to be valid. Public and private agencies in South Carolina are presently working to create a foster home licensing law. In Florida, the State Department of Public Welfare is revis-
ing the standards for agency foster homes. At the time of the writing of this thesis, a bill was introduced to the West Virginia legislature proposing to revise the current child welfare legislation. Most of the foster home licensing laws and standards of the Southern Atlantic Seaboard States have been revised or supplemented within the last fifteen years.

From discussion with Miss Elizabeth Craig of the Children's Bureau and from the study of Virginia Wenske's paper, "State Protects Children Away From Their Own Home," the author of this thesis compiled the following characteristics which licensing laws should have:

1) the law should be definite in its provisions, so that the extent of its jurisdiction is understood; all terms should be clearly defined. One agency should be responsible for issuing the license and making the home study,

2) the law should provide that the religious faith of the child and/or his parents should be considered by the placing agency, as in cases of adoption,

3) the law should be flexible, to permit sound administration. The law should provide that the state administrative agency set standards for foster
homes and that the supervising agencies have the responsibility for seeing that these standards are maintained,

4) the law should provide a complete procedure regarding the application, maintenance, and revocation of license. In addition, it should provide that the applicant may request a hearing by the courts on decisions made by the licensing agency.

Statutory definitions of terms used in foster home care are needed by all of the Southern Atlantic Seaboard States. By having no statutory definition of the term "foster child," such children may be included in the term "dependent children" which is not always a true definition of foster children. If not explicitly defined, "foster home" may become confused in the statutes with maternity homes for minors and/or day care centers and consequently inaccurate consideration could be given regarding minimum standards and requirements, etc.

Although many of the states studied have no statutory definitions of the terms "foster home" or "boarding home," all of the states have authorized some body to make rules and regulations concerning such homes.
Of the seven Southern Atlantic Seaboard States which issue licenses for foster homes, all have only one agency responsible for making the home study and actually issuing the license. However, duplication of services occurs in the statutes of two states, Florida and Georgia. In foster homes caring for three or more children in Florida, the State Board of Health must supplement the study made by the Department. The introduction of this supplementary agency seems questionable. In Georgia statutes, licensing power is delegated only to certain counties, on the basis of population. The State Department of Public Welfare in Georgia assumes power to approve all foster homes in the state, therefore, these two levels of government overlap in the above mentioned counties. A statutory revision is needed in order to license all foster homes in the state.

Consideration of the foster child's religious faith does not seem to enter into placement planning except in three states, where it is required that this matter be taken into account. The religious factor is important in foster home care, especially wherein the ultimate aim is rehabilitation with the natural family.

As the needs and resources of the various states differ,
so do the laws correspondingly. In the case of licensing foster homes, the best laws would seem to be the broadest laws, for then authorized and competent agencies have the opportunity to exercise flexibility in establishing realistic standards and maintaining them. It is hard to define the emotional requirements of foster parents in a law, so they should be mentioned only in general terms. Specific requirements as to the physical set-up of the home should not be detailed in a licensing law. It is the agency's responsibility to establish such requirements and publish them.

Standards are discussed in general terms in all of the statutes studied and are embodied in none of them. Since the statutes provide penalties only for violation of the provisions of the statutes themselves, the standards cannot be enforced according to law. Therefore, the individual agencies must find ways of maintaining the standards which they have promulgated.

The greatest concern lies not with the agency foster home which is supervised, but with the independent foster home which is unsupervised. It is important that some type of working relationship or cooperation be gained with
independent foster homes for the good of any children placed in the home. Only three of the states studied require either direct supervision of the independent foster home or reports from the independent foster parents.

The approach to the licensing process should be educational, emphasizing supervision and consultation rather than authoritarian inspection. This should be reflected in the rules and regulations concerning foster homes. Florida standards give disproportionate emphasis to physical requirements of the home compared to consideration of mental hygiene factors in the home. This is not done in the standards of the other states studied.

The most complete statutory procedure regarding foster home licenses is found in the laws of Virginia. While some of the states studied have recorded procedure to include application, method of supervision or reporting, revocation, penalties for violation, and appeal of decisions made, only Virginia statutes provide for the issue of a provisional license, use of the injunction against operation without license, and suspension of prosecution during investigation. During the time that they are associated with the agency, the
foster parents and foster children are accounted for as to their whereabouts according to Virginia's law.

In studying the foster home licensing laws, it becomes evident that the effectiveness of the legislation depends to a great extent upon the administration of the law by the authorized agency.

The theory and philosophy behind the licensing laws (the protection of children) can be ignored in practice and, on the other hand, this theory can be improved upon in practice. It also can be seen that good licensing laws are needed for child placing agencies in order that these agencies may put foster home care into practice wisely and well.
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