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## HAWAII ADMINISTRATIVE RULES

### TITLE 17

#### DEPARTMENT OF HUMAN SERVICES

#### SUBTITLE 6 . FAMILY AND ADULT SERVICES DIVISION

#### CHAPTER 893

#### LICENSING OF CHILD-PLACING ORGANIZATIONS

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Historical Note: This chapter is based substantially upon Rule 5 "Rules and Regulations Governing Child-Placing Organizations" Public Welfare Division, Department of Social Services and Housing. [Eff 5/2/60; R 7/19/82]

§17-893-1 Definitions. For the purpose of this chapter:

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"Certificate of approval" means the certificate issued by the department which authorizes a person, **agency**, or organization to operate a child-placing organization.

"Child-placing organization" or "organization" means any person, agency, or organization, except family courts and the department, engaged in the investigation, placement, and supervision of children in foster care,

"Children" means persons under eighteen years of age.

"Foster care" means care and maintenance given to children on a twenty-four hour basis apart from parents or legal guardians, by persons other than those related to the child by blood, marriage, or adoption.

"Foster care **facility**" means a foster home or institution providing foster care.

"Foster home" includes the following types of foster home care provided by an organization:

- (1) Adoptive home, in which the intent of the family is to petition the court in order to assume legally the full responsibilities and privileges of parenthood toward the child who has been placed with the family and is legally available for adoption;
- (2) Foster boarding home, in which foster parents provide care and maintenance to children apart from the children's parents or legal guardians on a twenty-four hour basis for fee or charge;
- (3) Free home, in which foster **parents** receive no payment for the care of the child and do not expect the child to pay for the child's care through services;
- (4) Wage home, in which foster parents make definite arrangements to provide a wage to the child in return for services but where the child is accepted as a member of the family and not as an employee; and
- (5) Work home, in which foster parents accept a child as a member of the family but receive services from the child in return for room and board.

"Foster parent" means any adult person who is not related to the child by blood, marriage, or adoption, and who provides parenting care and maintenance to a

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foster child.

"Guardian" means a person other than a child's parents who has legal authority over and responsibility for a child.

"New hire" means a person seeking employment in a child-placing organization for the first time in the State, either as an applicant or prospective employee of a child-placing organization.

"Rehire" means an applicant or prospective employee of a child-placing organization who is seeking to operate or be employed in a child-placing organization following termination of employment of more than six months and who has been out of the State during this break in employment. [Eff 7/19/82; am 3/20/87; am and comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §§346-16, 346-17)

## SUBCHAPTER 1

### LICENSING REQUIREMENTS

§17-893-2 Operation of a child-placing organization. (a) Any person, agency, or organization desiring or planning to operate a program of investigation, placement, and supervision of children in foster care shall be required to obtain a certificate of approval from the department prior to engaging in any phase of child-placing activities.

(b) Parents, legal custodians, or legal guardians who are willing and able to provide a safe home for their child if it were not for the child's extraordinary medical, physical, or psychological needs, do not need to obtain a certificate of approval from the department and do not need to meet the licensing requirements of this chapter in order to place and supervise their own child.

(c) The department shall not issue a certificate until information required by this chapter is submitted to the department establishing that the organization is properly qualified to act in a child-placing capacity. [Eff 7/19/82; am and comp 7/30/92; am 2/17/97 ] (Auth: HRS §346-17) (Imp HRS §346-17)

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§17-893-3 Application. (a) The organization shall submit an application for license to the department, which shall include the following information:

- (1) Statement of organization's purpose and function;
- (2) Statement of the organization's program and the services to be provided, including an explanation of how the proposed services relate to existing community services so as to complement, expand, or stimulate overall child-placing activities in the State;
- (3) Statement of criteria for selection of children to be served;
- (4) Statement of geographical area to be served;
- (5) Statement of the organizational plan, including statement of legal authority and a copy of the by-laws;
- (6) List of officers, directors, trustees, or advisory board members;
- (7) Copy of the personnel policies outlining the organization's personnel practices;
- (8) Statement of the requirements for the training and experience of the professional staff to be employed;
- (9) Copy of the organization's classification and salary schedule;
- (10) Copy of the estimated annual budget, including a statement of the plan for the continued funding of the organization; and
- (11) Other statements as may be required by the department.

(b) Applicants shall provide an initial criminal history, background, employment information, and consent to conduct such checks as may be required by state or federal law. The information and consent shall be given upon forms supplied by the department and shall be repeated for applicants defined as rehires.

(c) The department shall conduct employment history and background checks on all applicants, and applicants shall conduct employment history and background checks on prospective employees.

(d) The department shall review the applicant's qualifications to determine that the proposed services or program meet the requirements of this chapter.

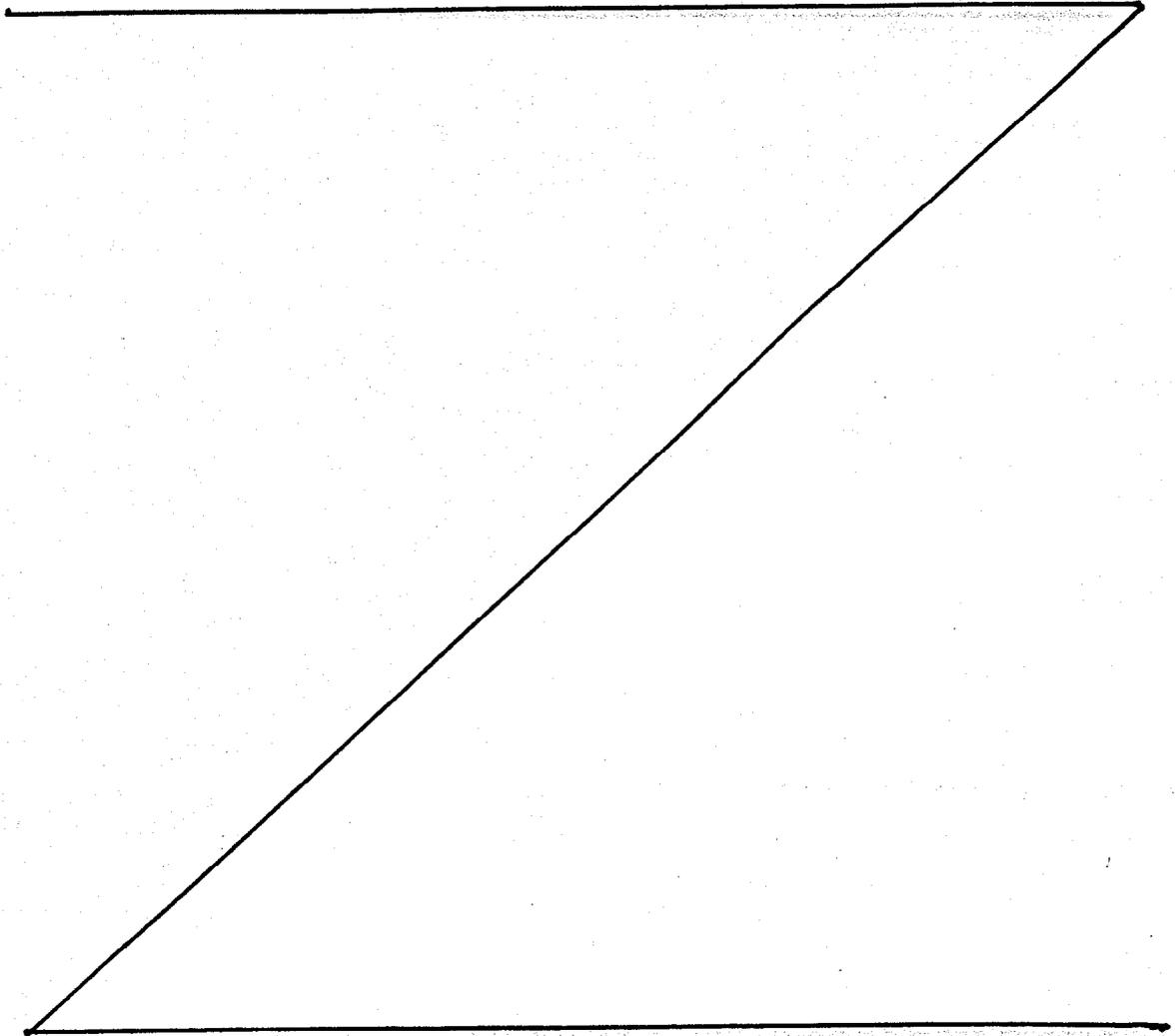
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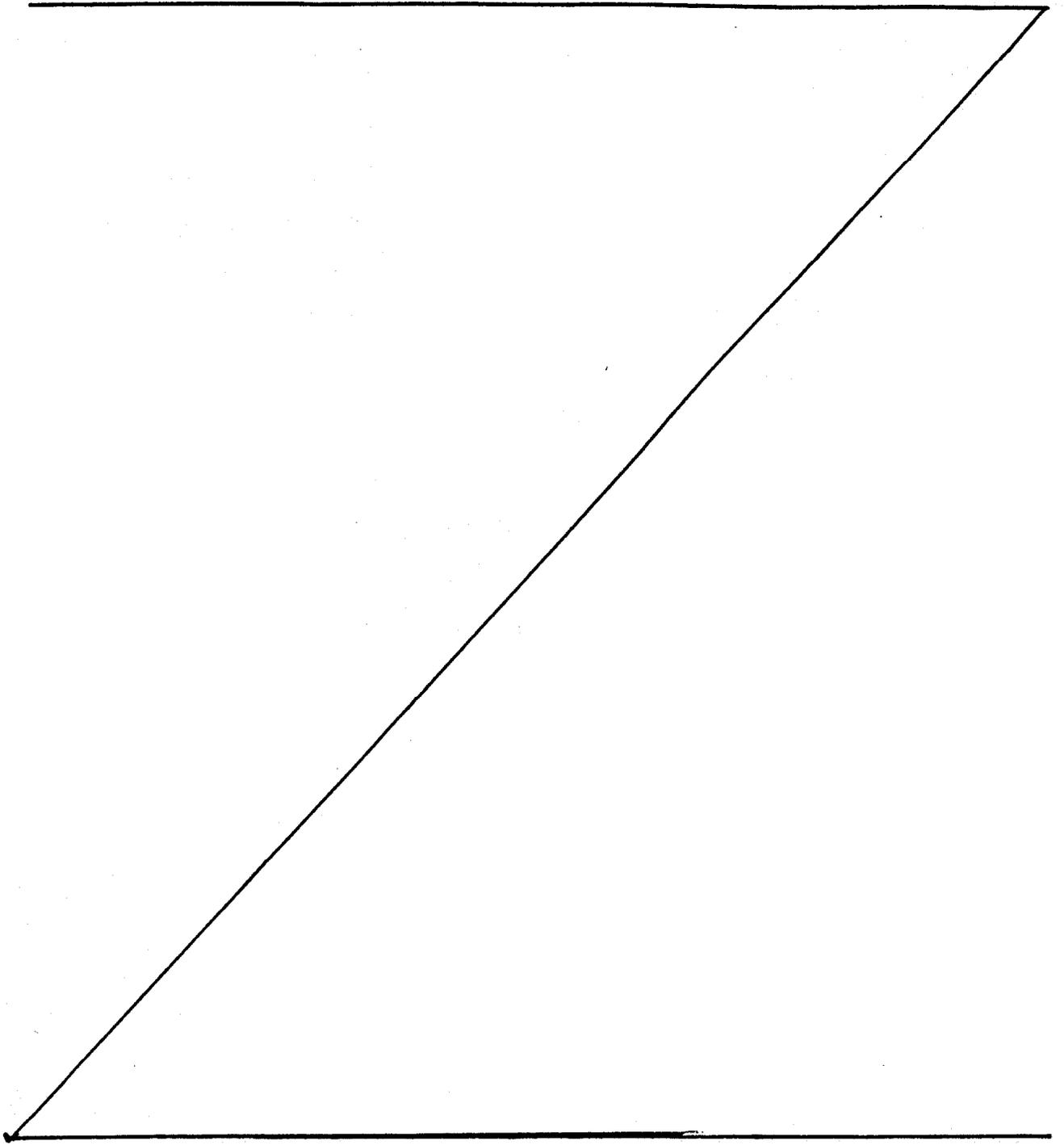
[Eff 7/19/82; am 9/30/85; am 3/20/87; am and comp  
7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §346-17;  
Public Law 98-473, 42 U.S.C. §5751)

§17-893-4 Issuance of certificate of approval.

(a) When the department determines through a review of the applicant's qualifications that the organization is in compliance with the requirements of this chapter,



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the department shall approve the application and shall issue a certificate of approval. The certificate of approval shall:

- (1) Be **valid** for one year; or be valid for two years when the following criteria are met:
  - (A) The organization has been in operation for at least one year as a licensed child placing organization by the State;
  - (B) The organization fully complied with all licensing requirements;
  - (C) There were no major changes in the organizational structure or in policies and procedures relating to foster care;
  - (D) The applicants have no criminal history, employment history, or background checks which pose a risk to children; and
  - (E) There were no complaints by the workers, clients, or the public which warranted investigation and which require closer monitoring;
- (2) Specify the name and address of the organization and shall be accompanied by a statement outlining the type of foster care program the organization is authorized to operate, the geographical area to be served, and the eligibility requirements of the children to be accepted;
- (3) Be non-transferable; and
- (4) Be conspicuously posted on the premises of the organization.

(b) After the issuance of a certificate of approval, applicants **shall** ensure that new employees and rehires comply with section 17-893-3(b) and (c) no later than five working days of employment.

(c) The department may request the applicant terminate the employment of an employee who has a criminal history, employment history, or background which poses a risk to children in care. Any such request shall be in writing and shall state with specificity those criminal convictions, employment history, or background information which indicates a risk to children.

- (1) When the applicant does not terminate the employment of the employee, the applicant shall notify the department within seven working days of receipt of the request. Such

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notification shall be in writing and shall state the reasons for the decision.

- (2) Refusal to terminate the employment of an employee when requested under this section may be grounds for revocation or suspension of a certificate of approval. [Eff 7/19/82; am 9/30/85; am 3/20/87; am and comp 7/30/92; am 9/16/96 ] (Auth: HRS §346-17) (Imp: HRS 8346-17; Public Law 98-473, 42 U.S.C. §5751)

## §17-893-5 Denial of certificate of approval.

When the department determines through a study of the application that the organization does not meet the requirements of this chapter, the application for license shall be denied. [Eff 7/19/82; comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §346-17)

## §17-893-6 Provisional certificate of approval.

(a) The department may issue a provisional certificate of approval to an organization which is temporarily unable to meet all requirements of this chapter, provided that the provisional certificate shall be for no longer than six months. The reasons for the issuance of a provisional certificate shall be provided to the organization in writing.

(b) At the discretion of the department, a provisional certificate of approval shall be renewable, provided the renewal shall be for no longer than six months. [Eff 7/19/82; comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §346-17)

## §17-893-7 Suspension and revocation. (a)

Whenever an organization fails to meet the conditions under which the certificate of approval was granted, the department shall notify the organization in writing, stating the specific conditions not met, and the department shall give the organization thirty calendar days to effect the necessary corrections.

(b) If after the notice, the organization fails to make the necessary corrections, the certificate of approval shall be suspended, revoked, or shall not be renewed by the department. [Eff 7/19/82; comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §346-17)

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§17-893-8 Application for renewal of the certificate of approval. (a) A certificate of approval shall be renewed annually or biennially if the criteria in section 17-893-4 are met. At least-thirty calendar days prior to the expiration date of the current certificate, the organization shall apply to the department for renewal of the certificate of approval.

(b) The application for renewal shall include:

- (1) A current list of all employees showing duties, **classification**, salary range, and the training and experience of each professional staff member;
- (2) A current list of officers, directors, trustees, or advisory board members, showing terms of office;
- (3) A copy of the estimated annual budget for the year or the estimated biennial budget for the next two years if the organization is certified for two years including the latest annual financial statement; and
- (4) Major changes in policies and procedures relating to foster care as made in the past year or two years.

(c) Annual name inquiry into the state criminal history files shall be conducted unless the organization has been approved for two years in which case a biennial name inquiry into the state criminal history files shall be conducted. The applicant and employees shall provide consent to the department to conduct such checks within five working days of the employment anniversary date or the anniversary date of the last consent to a criminal history check.

(d) The department shall study the application for renewal in order to determine whether the organization meets the requirements of this chapter.

(e) When the department determines that the organization meets the requirements of this chapter, the application for renewal shall be approved and a certificate of approval shall be issued according to the provisions of section 17-893-4.

(f) When the department determines from the study of the application for renewal that the organization does not meet the requirements of this chapter, the application for renewal shall be denied or a

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provisional certificate may be issued by the department according to the provisions of sections 17-893-5 and 17-893-6. The **reasons** for the action shall be provided in writing to the organization. [Eff 7/19/82; am 9/30/85; am 3/20/87; comp 7/30/92; am 9/16/96 ] (Auth: HRS §346-17) (Imp: HRS §346-17)

**§17-893-9 Hearing.** (a) Any organization whose certificate of approval is suspended, revoked, or denied, as in the case of an application for renewal, may appeal to the director of the department provided the organization makes the request in writing not later than thirty calendar days after the mailing of the notice of suspension, revocation, or denial by registered mail to the organization's last known address.

(b) The director of the department shall meet with the organization and shall hear any new information the organization may desire to produce.

(c) The suspension, revocation, or denial in question shall be stayed until the thirty day period has expired and may be further stayed by the director if an appeal has been filed.

(d) The decision of the director of the department on any request shall be final. [Eff 7/19/82; comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §346-17)

## SUBCHAPTER 2

### ADMINISTRATIVE REQUIREMENTS

**§17-893-10 Organization.** (a) The purpose and function of the organization shall be stated in writing and shall be available to the department, to the children and families served, and to all other interested persons. This written information shall include:

- (1) The services the organization provides to the children and families of the children who are requesting, or are in, foster home placement;
- (2) The eligibility requirements of the children to be served by the organization; and
- (3) The geographical area of service.

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(b) The organization shall have a board of at least three members, **composed of** persons representative of the community served by the organization, even when the organization is an individual, which shall meet at least quarterly.

(c) The organization shall have by-laws defining policies and procedures relating to board structure and organization, even when the organization is an individual, and the board shall direct the organization in carrying out the organization's purposes.

(d) The organization shall comply with all existing applicable laws of Hawaii.

(e) All employees of the organization shall be persons of good character, good health, emotional stability, and sufficient ability and education to carry out the duties assigned to them.

(1) Applicants and employees shall not have a criminal history record, employment history, or background which poses a risk to children in care.

(A) Conviction of a crime involving violence, alcohol or drug abuse, sex offense, offense involving children, and any other conviction, the circumstances of which indicate that **the applicant** or employee may pose a danger to children, are grounds for denial or revocation of a license or a reason to request termination of an employee under section 17-893-4 (c) .

(B) Type of criminal offense, when it occurred and evidence of rehabilitation may be considered in determining whether the criminal history record poses a risk to the health, safety, or well-being of children in care.

(C) An employment history indicating violence, alcohol or drug abuse, and any other violation of employer rule or **policy**, the circumstances of which indicate that the applicant or employee may pose a danger to children, may be grounds for denial or revocation of a license or a reason to request termination of an employee under section 17-893-4 (c) .

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(D) Background which shows that the individual has been identified as and substantiated to be the perpetrator of child abuse or neglect may be a basis for denial or revocation of a license or a reason to request termination of an employee **under section 17-893-4(c)**.

(f) The responsibility for the administration of the various services of the organization and the assignments of each member of the staff shall be in writing.

(g) The organization shall have a written statement of personnel policies, job classification, and salary schedule.

(h) The organization shall keep correspondence, records, a bookkeeping system, and files current and in good order and shall have a sound plan of financing which gives assurance of sufficient funds to enable the organization to carry out its defined purposes and to provide proper care to children.

(i) Statistical information regarding children in foster care shall be submitted monthly to the department on forms provided by the department. [Eff 7/19/82; am 9/30/85; am and comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §346-17; Act 209, SLH 1985; Public Law 98-473, 50 Fed. Reg. 2089)

**§17-893-11 Social services.** The organization shall have a social service program which reflects the latest standards established by the United States Children's Bureau and which includes:

(1) Application services.

(A) The organization shall study every application for placement of a child to determine the desirability of separating the child from the family and placing the child in foster care;

(B) The organization shall consider information in the application regarding past and current experiences and problems of the child in order to determine the type of services best suited to meet the child's needs;

(C) If at all possible, the organization shall help the child remain with the

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child's parents or legal guardians. However, if it is determined that a foster home placement is in the best interest of the child, the organization **shall provide** services to help the child and family understand the meaning of separation and the benefit from the services available from the child placing organization;

- (D) The organization shall arrange for temporary **care** in case of an emergency need for placement until the application study is completed and a decision made regarding continuing care;
  - (E) Parents or guardians shall be fully involved in the application process and in planning for the child, and the rights of parents or guardians shall be respected;
  - (F) The organization shall take appropriate legal action to protect children who are without responsible parents or legal guardians;
  - (G) The child shall be placed in a foster care facility that meets the requirements of chapters 17-890 and 17-894;
  - (H) Each child, the child's parents or guardians, and the foster care facility shall be prepared for the particular placement;
  - (I) Written and signed agreements between the organization and parents or guardians with regard to placement, financial arrangement, and authorization for dental, medical, and surgical diagnoses and treatment shall be secured;
  - (J) A written tentative plan of service, which shall include the purpose and duration of placement, shall be developed for each child. The organization shall re-evaluate the plan at least semi-annually;
- (2) Home finding services.
- (A) The organization shall recruit and

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develop foster homes to meet the needs of children served;

- (B) The organization shall make a complete study of each proposed foster home which, shall include:
    - (i) An evaluation of the applicant's motivation to provide foster care;
    - (ii) The compatibility of the foster parent couple and adjustments of the foster parents' own children, if any; and
    - (iii) The ability of the couple or single person to provide foster care;
  - (C) The organization shall keep a separate record on each home used which shall include:
    - (i) An application from the foster parents stating the foster parents' interest in providing foster care;
    - (ii) A report of the study of the foster home;
    - (iii) A record of the children placed in the home;
    - (iv) An annual evaluation of the foster home or a biennial evaluation of the foster home if the criteria in sections 17-890-s and 17-890-6 are met;
    - (v) A written agreement between the organization and the foster parents regarding board payments and responsibilities of the organization and the foster parents; and
    - (vi) A written agreement between the organization and the parents or guardians regarding board payments and responsibilities of the organization and parents or guardians;
- (3) Continuing services.
- (A) The organization shall provide children in foster care with continued casework services to ensure that the social, physical, emotional, educational, and intellectual needs of the children are

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- being met;
- (B) The organization shall offer the parents or guardians casework services in relation to the child's needs;
  - (C) **There** shall be visits to the foster home' on a planned basis to insure that services to the children are being provided;
  - (D) The organization shall provide health supervision and medical and dental care for all children in placement, which shall include:
    - (i) **Preplacement** physical examination by a licensed physician;
    - (ii) Provision for care when ill;
    - (iii) Inoculations and vaccinations as required by the state department of health;
    - (iv) Periodic health examinations according to the age of the children as required by the state department of health;
    - (v) Test for tuberculosis in accordance with current recommendations of the state department of health;
    - (vi) Dental examination and care by a licensed dentist; and
    - (vii) Psychological testing, evaluations, and treatment as necessary;
  - (E) The organization shall provide children in foster care with opportunities for education in accordance with individual needs and potentialities;
  - (F) The organization shall consider the religious faith or preference of the children and parents or guardians in the selection of a foster care facility for placement;
  - (G) The organization shall provide opportunities for the children to participate in leisure time activities and to develop special interests and abilities. These opportunities may be provided through the use of community resources or through individual instruction; and

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- (4) Discharge and after care services. Before discharge of the child from foster care, the organization shall take **responsibility** for evaluating the suitability of the discharge and after care plans for the child. [Eff 7/19/82; am and **comp** 7/30/92; am 9/16/96 ]  
(Auth: HRS §346-17) (Imp: HRS §346-17)

§17-893-12 Records of children. The organization shall keep case records of the children in the **organization's care**. Records shall include the following information:

- (1) Identifying information such as:
  - (A) The child's full name, birthdate, birthplace;
  - (B) Religion of parents or guardians and the child;
  - (C) Parents' or guardians' full names, including mother's maiden name, parents' or guardians' addresses, and parents' date and place of marriage;
  - (D) If parents or guardians are deceased, the date, place, and cause of death;
  - (E) If parents are divorced or separated, parents' full marital data;
  - (F) Names, addresses, and birthdates of other children in the family; and
  - (G) Names and addresses of immediate relatives;
- (2) Report of the application study;
- (3) Written agreements between the **organization** and the parents or guardians;
- (4) Statement of custody and legal responsibility for each child;
- (5) Plan of service;
- (6) Report of continued casework services provided to the child, the child's family, and to other adults providing care for the child;
- (7) Semi-annual evaluations of the plan of service;
- (8) Statement of academic and social adjustment in school;
- (9) Medical and dental reports for each child;
- (10) Reports of any psychological and psychiatric

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test and evaluation; and  
(11) Statement of the reasons for discharge and plan for after care. [Eff 7/19/82; am and comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §346-17)

§17-893-13 Penalty. Operating without a certificate of approval or wilfully making any false statement which violates any provision of this chapter shall constitute a violation which shall be punishable by a fine not exceeding \$200. [Eff 7/19/82; am and comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §§346-17, 701-107)

§17-893-14 Separability. If any section, subsection, paragraph, subparagraph, or clause of this chapter is for any reason held to be unconstitutional or invalid, the remaining portions of this chapter shall not be affected. [Eff 7/19/82; comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §346-17)

§17-893-15 Exceptions. Exceptions to the requirements of this chapter may be made at the discretion of the department. [Eff 7/19/82; comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §346-17)

§17-893-16 Savinss clause. Existing organizations licensed by the department shall continue to operate for the term of the organizations' certificate of approval and shall qualify under this chapter thereafter. [Eff 7/19/82; comp 7/30/92 ] (Auth: HRS §346-17) (Imp: HRS §§346-17)