

Title 15 - Mississippi Department of Health

Part III – Office of Health Protection

Subpart 55 – Child Care Facilities Licensure

CHAPTER 03 REGULATIONS GOVERNING REGISTRATION OF CHILD RESIDENTIAL HOMES

100 GENERAL

100.01 **Legal Authority** The Child Residential Home Notification Act, §43-16-1 et. seq. of the Mississippi Code of 1972 provides the legal authority under which the Mississippi Department of Health prescribes minimum regulations for child residential homes defined under the law. The Mississippi Department of Health shall be the notification agency for all child residential homes, and the department shall discharge the provisions the Child Residential Home Notification Act, §43-16-1 et. seq. of the Mississippi Code of 1972.

100.02 **Purpose**

1. The purpose of these regulations is to protect and promote the health and safety of children in this state by providing for the registration of child residential homes as defined herein so as to assure that certain minimum standards are maintained in such facilities. This policy is predicated upon the fact that a child is not capable of protecting himself, and when his parents for any reason have relinquished his care to others, there arises the probability of exposure of that child to certain risks to his health and safety which require the offsetting statutory protection of registration. This document and its appendices constitute the Regulations Governing the Registration of Child Residential Homes.
2. A child residential home may exceed the minimum quality standards required in these regulations, but may not operate without meeting the minimum standards set forth in these regulations.

100.03 **Severability** If any provision of these regulations or the application thereof to any persons or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

100.04 **Definitions**

1. **Act** The Child Residential Home Notification Act, §43-16-1 et. seq. of the Mississippi Code of 1972.

2. **Agency Representative** An authorized representative of the Mississippi Department of Health.
3. **Child** A person who has not reached the age of 18 years or who has not otherwise been legally emancipated.
4. **Child Residential Home** Any place, facility or home operated by any person which receives children who are not related to the operators and whose parents or guardians are not residents of the same facility for supervision, care, lodging and maintenance for 24 hours a day, with or without transfer of custody.

The term “A Child Residential Home” shall not include:

- a. residential homes which are licensed by the Mississippi Department of Human Services under the provisions of §43-15-5, Mississippi Code of 1972 (such facility shall hereafter be known as a Residential Child-Caring Agency);
 - b. any public school;
 - c. any such home operated by a state agency;
 - d. child care facilities as defined in §43-20-5, Mississippi Code of 1972;
 - e. youth camps as defined in §75-74-3, Mississippi Code of 1972; or
 - f. health care facilities licensed by the Department of Health.
5. **Department** The Mississippi Department of Health (MDH).
 6. **Person** An individual, partnership, organization, association, or corporation.
 7. **Director** An individual, designated by the operator, who has met minimum state requirements and who has on-site responsibility for the operation of a child care facility. This person may or may not be the operator.
 8. **Health** The condition of being sound in mind and body and encompassing an individual's physical, mental, and emotional welfare.
 9. **Operator** Any person, acting individually or jointly with another person or persons, who shall establish, own, operate, conduct, or maintain a child residential home. The child residential home registration shall be issued in the name of the operator, or, if there is more than one (1) operator, in the name of one (1) of the operators. In

the event that there is more than one (1) operator, all statutory and regulatory provisions concerning the background checks of operators shall be equally applied to all operators of a facility, including, but not limited to, a spouse who jointly owns, operates or maintains the child residential home regardless of which operator is named on the license.

10. **Parent** As used in these regulations, parent shall mean custodial parent, legal guardian, foster parent, guardian ad litem, and other individuals or institutions to whom a court of competent jurisdiction has granted legal authority over the child.
11. **Personal Care** Assistance rendered by personnel of the child care facility in performing one or more of the activities of daily living, which includes but is not limited to the feeding, personal grooming, supervising and dressing of children placed in the child care facility.
12. **Safety** The condition of being protected from hurt, injury or loss.
13. **Service Staff** A person who provides support services such as cooking, cleaning, or driving a vehicle, but is not a caregiver.

101 REGISTRATION

101.01 Requirement for Registration

1. No person shall establish, own, operate, conduct, or maintain a child residential home in this state without being registered pursuant to these regulations.
2. The operator of any child residential home shall provide notification/registration in accordance with these regulations within 60 days of beginning operation.

The registering authority will require no entity exempt from the licensure requirement to apply for a license. However, should an exempt entity desire to obtain a license, it will be subject to these regulations.

- 101.02 **Eligibility for Registration** Any Child Residential Home not meeting the following criteria is required by §43-15-101 through §43-15-125 to be licensed by the Mississippi Department of Human Services. It is the responsibility of operator of the home claiming exemption from licensure to provide the required documentation to both the Mississippi Department of Health (MDH) and the Mississippi Department of Human Services (MDHS).

To be exempt from MDHS licensure and eligible to register with the MDH, a Child Residential Home shall:

1. Operate under the auspices of a religious institution.

- a. Such religious institution must have a tax exempt status as a nonprofit religious institution in accordance with §501(c) of the Internal Revenue Code of 1954, as amended, or
 - b. The real property owned and exclusively occupied by the religious institution must be exempt from location taxation.
2. The agency or institution must be in compliance with the requirements of the Child Residential Notification Act, §43-16-1 et seq., Mississippi Code of 1972 and these regulations.
 3. The agency or institution must not be in violation of §43-16-21(c) regarding the abuse and/or neglect of any child served by such home who has been adjudicated by the youth court as an abused and/or neglected child.

101.03 **Application for Registration** An application for registration under these regulations shall be made to the registering agency upon forms provided by it and shall contain such information as the registering agency may reasonably require.

101.04 **Registration Fee** All registration fees, registration renewal fees, and administrative charges shall be paid by certified check or money order payable to the Mississippi Department of Health, and are non-refundable. Checks returned for insufficient funds, closed account, etc., shall be assessed an additional \$50 fee.

1. Initial Registration Fee.....\$100.00
2. Registration Renewal Fee.....\$100.00
3. Reinstatement Fee.....\$200.00
4. Returned Check Fee.....\$ 50.00
5. Late Fee.....\$ 25.00
6. Fingerprinting Fee (Per Fingerprint Card).....\$ 50.00

NOTE: Except for the fingerprinting fee no governmental entity or agency that operates a child care facility shall be required to pay the fees set forth in this section. Third party providers that contract with a state agency for the provision of child care services are subject to all fees, fines, etc. Further, should an entity exempt from licensure apply for a license, it shall be subject to all fees listed in this section.

101.05 **Certificate of Inspection by Fire Department**

1. A certificate of inspection and approval by the fire department of the municipality or other political subdivision in which the child residential home is located shall be submitted to the licensing agency with the application and registration fee. Except that if no fire department exists where the facility is located, the State Fire Marshall shall certify as to the inspection for safety from fire hazards
2. The inspection form to be used for fire inspections shall be MDH Form #333 and shall be signed by a signatory authority of the fire inspection authority making the inspection

101.06 **Inspection** An agency representative(s) shall inspect each child care facility prior to issuing or renewing a registration to assure compliance with these regulations

101.07 **Record of Inspection** Whenever an inspection is made of a child residential home, the findings shall be recorded on an official inspection form and furnished to the operator, director, and/or their representative, at the time the inspection is made.

101.08 **Renewal of Registration**

1. The registering agency shall issue licenses which may be renewed annually. The registering agency shall mail renewal notices, at least 75 days prior to the expiration date of the license to the address of the operator registered with the registering agency. The operator shall:
 - a. Complete the renewal form;
 - b. Submit any and all certificates of inspection and approval required by the registering agency;
 - c. Enclose the renewal fee; and
 - d. File the above with the registering agency at least 30 days prior to the expiration date on the registration.

NOTE: Renewal applications postmarked less than 30 days prior to the expiration date of the registration shall be assessed a \$25.00 late fee.

2. An operator who does not file the renewal application prior to the date that the registration expires will be deemed to have allowed the registration to lapse. Said registration may be reinstated by the registering agency, in its discretion, by payment of both the renewal fee and the reinstatement fee, provided said application for reinstatement is made within one (1) month of the expiration date of the registration. After the one month reinstatement period, it shall be required that an application for an initial registration be

submitted. All registration requirements in effect at the time the new initial application is filed shall be met. In addition all delinquent fees shall be paid.

101.09 **Registration Not Transferable or Assignable** Each registration shall be issued only for the premises and operator named in the application and shall not be transferable or assignable. A change of ownership includes, but is not limited to, inter vivos gifts, purchases, transfers, lease arrangements, cash and/or stock transactions or other comparable arrangements whenever any person or entity acquires or controls a majority interest of the child residential home. Changes of ownership from partnerships, single proprietorships, or corporations to another form of ownership are specifically included.

101.10 **Display of Registration** The current registration issued by the registering agency to the named child residential home and operator shall be posted and displayed in a conspicuous place and in easy view of all persons who enter the child care facility. The facility operator shall also post next to the license, in plain view, a notice provided by the MDH, that informs the public of where and how they may report a complaint against the facility.

102 **RIGHT OF ENTRY AND VIOLATIONS**

102.01 **Right of Entry** An agency representative may enter any child residential home for the purpose of making inspections or investigations to determine compliance with these regulations.

102.02 **Violations** If violations noted on the inspection form are not corrected within the period of time specified by the registering agency, a registration may be denied, suspended, or revoked in accordance with these regulations.

103 **INITIAL NOTIFICATION REQUIREMENTS** When making the initial notification that a Child Residential Home is operating or intending to operate, the executive director of the Child Residential Home shall provide the following information to the department on forms provided by the department:

103.01 Documentation that the agency is exempt from the licensure requirements of the MDHS.

103.02 Name, street address, mailing address and phone number of the home.

103.03 Name of the executive director and all staff members of the home.

103.04 Name and description of the agency or organization operating the home, which shall include a statement as to whether or not the agency or organization is incorporated.

103.05 Name and address of the sponsoring organization of the home, if applicable.

- 103.06 The names of all children living at the home which shall include the following personal data:
- 103.07 Full name and a copy of the child's birth certificate;
- 103.08 Name and address of parent(s) or guardian(s); and
- 103.09 Name and address of other nearest relative.
- 103.10 School(s) attended by the children served by such home.
- 103.11 Fire department or State Fire Marshal inspection certificate.
- 103.12 Local health department inspection certificate.
- 103.13 Proof, to be shown by the sworn affidavit of the executive director of the home that the home has performed:
1. Criminal record background checks,
 2. Felony conviction record information checks on all employees, prospective employees, volunteers and prospective volunteers at such home, and
 3. Such records are maintained to the extent permitted by law, for every such employee, prospective employee, volunteer, and prospective volunteer.

Criminal record background and felony conviction record information checks shall be accomplished through submitting fingerprints through the MDH to the Department of Public Safety and Federal Bureau of Investigation.

- 103.14 Proof, to be shown by sworn affidavit of the executive director of the home, that medical records are maintained for each child.

104 **ACKNOWLEDGMENT OF NOTIFICATION AND CERTIFICATE OF REGISTRATION**

- 104.01 Upon the submission of a properly completed notification form accompanied by
1. A certificate of inspection and approval by the fire department of the municipally or other political subdivision in which the home is located, and
 2. a certificate of inspection and approval by the health department of the county in which the home is located, the department will acknowledge that the home has properly notified the department regarding its operation and issue a "Certificate of Registration."
- 104.02 Upon issuing the acknowledgment of notification and certificate of registration the MDH shall provide copies of the notification form to the

chancery court or the youth court, as appropriate, of the county in which the home is located.

- 105 **MONTHLY REPORTS** Each child residential home shall file monthly reports with the department, on forms provided by the department. Said monthly report shall indicate any changes in the notification information originally provided in accordance with Section IV of these regulations which have occurred, if any.
- 106 **ANNUAL INSPECTION OF HOMES**
- 106.01 The department, once a year, shall make or cause to be made inspections limited to health, nutrition, cleanliness, sanitation, written medical records for children, discipline policy, family communication policy, and required criminal checks of all child residential homes.
- 106.02 Reasonable additional inspections may be made as often as may be deemed necessary by the department, but shall not be scheduled so as to disrupt the normal activities of the home.
- 106.03 Annual fire inspections are required and shall be made of the home.
- 106.04 Any violation of state law on the premises of a child residential home shall immediately be reported by such inspection personnel to the appropriate law enforcement official.
- 107 **REQUIRED WRITTEN POLICIES** Every child residential home shall have a written discipline policy and written family communication policy which shall be approved in writing, if possible, by the parent(s) or guardian(s) of the children residing at such home, and shall be made available to authorized inspection personnel upon request.
- 108 **ENFORCEMENT OF NOTIFICATION/REGISTRATION REQUIREMENTS** Whenever the department is advised or has reason to believe that any child residential home is operating without proper notification in accordance with this chapter, it shall request a meeting with the governing board and executive director of such home to ascertain the fact. If the department finds that such home is providing supervision, care, lodging or maintenance for any children without such notification, it shall give the executive director of the home written notice by certified mail that such person shall file notification in accordance with this chapter within 60 days after receipt of such notice or the department may request a court injunction as provided in §43-16-21.
- 109 **COURT ACTION FOR INJUNCTION OR RESTRAINING ORDER AGAINST HOME: GROUNDS** Notwithstanding the existence of any other remedy, the department may, in the manner provided by law, in term time or in vacation, upon the advice of the Attorney General who shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or restraining order to cease the operation of the home, and to provide for the appropriate removal of the children from the home and placement in the custody of the parents or legal guardians, the Department of Human Services, or any other appropriate entity in the discretion of the

court. Such action shall be brought in the chancery court or the youth court, as appropriate, of the county in which such child residential home is located, and shall only be initiated for the following violations:

- 109.01 Providing supervision, care, lodging or maintenance for any children in such home without filing notification in accordance with this chapter.
 - 109.02 Failure to satisfactorily comply with local health department or State Fire Marshal inspections made pursuant to §43-16-15, regarding the health, nutrition, cleanliness, safety, sanitation, written records and discipline policy of such home.
 - 109.03 Suspected abuse and/or neglect of the children served by such home, as defined in §43-21-105, Mississippi Code of 1972.
- 110 **REGULATION OF PROGRAM CONTENT** No governmental agency shall have jurisdiction or authority to regulate or attempt to regulate, control or influence the form, manner or content of the religious curriculum, program or ministry of a school or of a facility sponsored by a church or religious organization.