

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DISTRICT**

EDEN ROGERS and
BRANDY WELCH,

Plaintiffs,

-against-

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;

XAVIER BECERRA, in his official capacity as
Secretary of the UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN
SERVICES;

ADMINISTRATION FOR CHILDREN AND
FAMILIES;

JANUARY CONTRERAS, in her official
capacity as the Senior Official Performing the
Duties of the
Assistant Secretary of the ADMINISTRATION
FOR CHILDREN AND FAMILIES;

JEFF HILD, in his official capacity as Principal
Deputy Assistant Secretary of the
ADMINISTRATION FOR CHILDREN AND
FAMILIES;

HENRY MCMASTER, in his official capacity
as Governor of the STATE OF SOUTH
CAROLINA; and

MICHAEL LEACH, in his official capacity as
State Director of the SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES,

Defendants.

Case No.: 6:19-cv-01567-JD

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

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EDEN ROGERS and

BRANDY WELCH,

Plaintiffs,

vs. CASE NO. 6:19-cv-01567-TMC

UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;
ALEX AZAR, in his official capacity as SECRETARY of
the UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
ADMINISTRATION FOR CHILDREN AND FAMILIES;
LYNN JOHNSON, in her official capacity as ASSISTANT
SECRETARY of the ADMINISTRATION FOR CHILDREN AND
FAMILIES;
SCOTT LEKAN, in his official capacity as PRINCIPAL
DEPUTY ASSISTANT SECRETARY of the ADMINISTRATION
FOR CHILDREN AND FAMILIES;
HENRY MCMASTER, in his official capacity as
GOVERNOR of the STATE OF SOUTH CAROLINA;

MICHAEL LEACH, in his official capacity as STATE
DIRECTOR of the SOUTH CAROLINA DEPARTMENT OF SOCIAL
SERVICES,

Defendants.

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VIDEOTAPED
DEPOSITION OF: JACQUELINE LOWE
(APPEARING VIA VIRTUAL ZOOM)

DATE: June 3, 2021

TIME: 9:27 AM

REPORTED BY: TERRI L. BRUSSEAU
(APPEARING VIA VIRTUAL ZOOM)

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ALSO PRESENT:

**George Libbares, Concierge Technician
(Appearing Via Virtual Zoom)**

**Wale A. Akintunde, Video Technician
(Appearing Via Virtual Zoom)**

(INDEX AT REAR OF TRANSCRIPT)

1 to make it clear which is which in my questions.

2 A. Thank you. I appreciate that.

3 Q. Sure. Just a little bit of background
4 about you I'd like to go through. What -- what
5 sort of educational degrees do you hold?

6 A. I hold a Bachelor of Science degree in
7 Criminal Justice, a Bachelor's of Social Work
8 degree, Master's of Education in Rehabilitation
9 Counseling.

10 Q. Okay. I'll just take those one at a
11 time. Your Bachelor of Science in Criminal
12 Justice, from what school did you get that degree?

13 A. From the University of South Carolina,
14 Columbia.

15 Q. And what year was that?

16 A. 1987.

17 Q. Okay. And then you also said
18 Bachelor's of Social Work. When -- what school did
19 you attain that degree from?

20 A. That is from -- gosh, I'm drawing a
21 blank. That was in 1991, I believe.

22 Q. Okay. And then the last one, Master's
23 of Education in Rehabilitation Counseling, from
24 what institution did you get that degree from?

25 A. University of South Carolina, Columbia.

1 Q. And in what year?

2 A. 2001.

3 Q. Okay.

4 A. Yeah.

5 Q. Great. And for how long have you been
6 employed by DSS?

7 A. About 25 years.

8 Q. Okay. And what is -- what is your
9 current position there?

10 A. My current position is director of
11 child welfare and licensing.

12 Q. And can you just describe for me sort
13 of in broad strokes what your responsibilities are
14 in that role.

15 A. Sure. In that role I'm responsible for
16 staff across the state who are licensing foster
17 family homes who are supporting foster families,
18 also staff who license families with the child
19 placing agencies and also license child placing
20 agencies themselves as well as group homes
21 throughout the state.

22 Q. So you're -- and how long have you held
23 that position?

24 A. I've been in this current role since
25 2011.

1 Q. And before that, what was your position
2 at DSS?

3 A. Before that I was working as a -- in
4 our specialized foster home services program, so a
5 program manager that was responsible for the public
6 therapeutic child welfare foster care licensing for
7 the agency and then it rolled into the state
8 office, statewide management.

9 Q. Okay. And you said therapeutic foster
10 care, I believe. What does therapeutic foster care
11 mean?

12 A. So therapeutic are classification for
13 children that have more specific care needs than
14 what will be considered standard over day-to-day
15 care needs for children. So it could be children
16 with complex medical care needs, with
17 classifications for diagnoses of behavioral
18 conditions or disorders, so those children that
19 would require more than what you would do for any
20 child on a day-to-day basis.

21 Q. Okay. And for those children who don't
22 fall into that category, is that type of foster
23 care, is that sometimes referred to as
24 nontherapeutic foster care?

25 A. That is correct.

1 Q. Okay. So in that position, that was
2 from 2001, how long did that run back for?

3 A. A few years. I don't have my resume in
4 front of me for these specific dates, but just a
5 few years. Probably maybe four years or so in that
6 role or capacity.

7 Q. Okay. And then was there another --
8 was there another position before that that you
9 served at DSS?

10 A. Sure. Adoption administrator and then
11 also did technical assistance for DSS in terms of
12 foster care working with counties and regions
13 around foster care issues. And then again the
14 adoption administrator, so served a region of the
15 state where we provided adoption specific services
16 for applicants who were wanting to be approved for
17 adoption purposes.

18 Q. Okay. And was that -- have we touched
19 on all of the roles that you've had at DSS in your
20 tenure there or are there others?

21 A. I also served as a foster care worker
22 with the Department and then prior to that I worked
23 in economic services, which were financial services
24 for applicants.

25 Q. When you say a foster care worker, what

1 does that role entail?

2 A. So with the foster care worker, there
3 was a caseload that I managed of children who were
4 in out-of-home placements, i.e. foster care, and
5 would visit them on a regular basis to ensure that
6 the services were being provided to them per their
7 treatment plan.

8 Q. So that was a caseworker type role
9 where you were assigned to particular children?

10 A. That is correct.

11 Q. Okay. Great. And then before you were
12 employed at DSS, where were you employed prior to
13 that?

14 A. I was with DSS and then I left and went
15 to one of the private therapeutic foster care
16 agencies with South Carolina MENTOR, and then I
17 also worked with the state Department of Mental
18 Health and then came back to the Department.

19 Q. Okay. And what was your -- what were
20 your responsibilities when you worked for South
21 Carolina MENTOR?

22 A. With South Carolina MENTOR I was a case
23 manager for a caseload of children with complex
24 medical care needs and so I facilitated or
25 coordinated services delivery for them, supported

1 that each of those CPAs received from -- in South
2 Carolina for the years 2017 through much of 2020.
3 Does that sound right to you?

4 A. It does.

5 Q. And if you just -- if you take a look
6 at the names of the CPAs listed there, does that
7 appear to be a complete list of the state
8 contracted CPAs in South Carolina?

9 A. I can't speak to all of the state
10 contracted facilities. That's not a part of -- my
11 responsibility is whether agencies are contracted,
12 but this does show some of the agencies that are
13 licensed by the Department and some that are paid
14 for services.

15 Q. Okay. Are there any CPAs that are
16 licensed by the Department that you -- that come to
17 mind that you don't see on that list?

18 A. Yes.

19 Q. And which are those?

20 A. Let's see. Well, there are -- let me
21 say that JusticeWorks Behavioral Care is not
22 licensed by the Department so -- you know, there
23 may be a contract that I'm not aware of, but that
24 agency is not licensed by DSS. So there are newer
25 agencies that have been licensed by the Department

1 that's not on this list, like Oasis of Hope I
2 believe is one, so there have been newer agencies
3 licensed since this list that's not included here.

4 Q. Okay.

5 A. This list are licensed except for the
6 JusticeWorks mentioned as well as LifeShare.

7 Q. LifeShare is also not licensed -- not a
8 licensed CPA?

9 A. LifeShare Management Group is not
10 licensed by South Carolina DSS.

11 Q. Okay. And there's a CPA that we've
12 come across that's called The MENTOR Network. I
13 didn't see that on this list. Is that a licensed
14 South Carolina CPA?

15 A. They are.

16 Q. And any others that come to mind that
17 are licensed CPAs that don't show up on this chart?

18 A. The South Carolina MENTOR is on the
19 chart.

20 Q. So The MENTOR Network --

21 A. It's on Page 2.

22 Q. Okay. So The MENTOR Network and South
23 Carolina MENTOR, that's the same thing?

24 A. That is correct.

25 Q. Got it.

1 A. Yeah, for South Carolina, it's South
2 Carolina MENTOR, but it is part of The MENTOR
3 Network.

4 Q. Got it. Okay. Thank you. So from
5 this list -- so -- let me back up a second.

6 Is South Carolina divided into regions
7 for purposes of DSS's work?

8 A. Yes, they are.

9 Q. Okay. And what region is the
10 Greenville area a part of?

11 A. Greenville is a part of the upstate
12 region.

13 Q. Is that also referred to as Region 1?

14 A. Previously it was referred to as
15 Region 1.

16 Q. Okay. But now you call it the upstate
17 region?

18 A. That is correct.

19 Q. Okay. If I -- I'll try to call it
20 that, but if I say Region 1, you'll understand that
21 that's what I'm talking about?

22 A. I will, yes.

23 Q. Great. And can we -- can you run down
24 the list for me and let me know which of these CPAs
25 on the list here were -- are Region 1 -- or, sorry,

1 I already messed up, upstate region CPAs?

2 A. Can I also just mention that although
3 some of these are located in the upstate, they also
4 work statewide. Okay?

5 Q. Yes.

6 A. So --

7 Q. Okay.

8 A. So Church of God Home For Children are
9 in the upstate, Connie Maxwell. Epworth Children's
10 Home has a presence in the upstate. Family
11 Preservation is statewide, so is Growing Home.
12 Crosswell is Pee Dee. Miracle Hill Ministry,
13 upstate. New Foundations Home for Children,
14 upstate. Nightlight Christian Adoptions, upstate.
15 South Carolina Youth Advocate, statewide, so if
16 somehow you want to classify that.

17 South Carolina MENTOR is statewide.
18 Southeastern, upstate. Tamassee, upstate.
19 Thornwell, upstate. The Bair Foundation is
20 statewide but has an upstate presence. SAFY, which
21 is the same as Specialized Alternatives For Youth,
22 so it's listed out here a couple different ways,
23 they are statewide but has an upstate presence.
24 The Bair Foundation, statewide, has an upstate
25 presence as well.

1 Q. Okay. Great. So you said -- I think
2 you called it SAFY, is that the -- how it's
3 pronounced?

4 A. Yes. That's it. That's the acronym,
5 but it's Specialized Alternatives For Youth.

6 Q. And there's three lines I think that
7 look like they all refer to that CPA in some
8 capacity, right? There's SAFY, Inc., SAFY of South
9 Carolina, Inc. and Specialized Alternatives For
10 Children. That got cut off of it. So is that
11 all -- are those lines all referring to the same
12 entity?

13 A. Yes.

14 Q. Do you have any understanding of why
15 it's broken out into those three separate entries
16 on the chart?

17 A. I do not.

18 Q. Okay. In addition to the ones that you
19 mentioned there that serve either Region 1 in
20 particular or that are statewide, is Lutheran
21 upstate region CPA Lutheran Family Services?

22 A. Lutheran is primarily in the midlands,
23 but they may serve statewide.

24 Q. Okay. And then how about South
25 Carolina Church of God?

1 Q. Any other upstate area CPAs that
2 provide nontherapeutic services that we haven't
3 mentioned?

4 A. I don't -- I think of the ones we've
5 mentioned, that was it for the upstate.

6 Q. Great. I'm just going to walk through
7 that list that we just went over. And for each
8 one, if you can tell me when they began to the
9 extent -- you know, ballpark when they began
10 providing foster care services for Connie Maxwell.

11 A. They've got a longstanding history with
12 the Department and with the state, so it's been a
13 long time. Certainly more than 20 years.

14 Q. Okay. And how about Epworth?

15 A. The same. I think on their website
16 you'll see they're probably a 100-year history of
17 providing services to children throughout the
18 state.

19 Q. And Lutheran?

20 A. Lutheran has been licensed for a number
21 of years as well with the Department.

22 Q. Do you think ten years or more, less
23 than ten years?

24 A. Ten years or more.

25 Q. Okay. And how about Miracle Hill?

1 A. Longstanding, so long time, more than
2 20 years.

3 Q. What about Nightlight?

4 A. Nightlight is a newer licensed agency,
5 so less than ten years.

6 Q. And how about the Church of God Home
7 For Children?

8 A. They've been licensed for a few years,
9 probably around ten years.

10 Q. Okay. And then what about Thornwell?

11 A. Thornwell has a long -- longer history,
12 so more than ten.

13 Q. I just want to confirm. I know you had
14 mentioned that there were a couple of other CPAs
15 that worked in the upstate region. One of those is
16 called Tamassee, I believe. Is that a therapeutic
17 or a nontherapeutic CPA?

18 A. They are currently closed, but they
19 were a nontherapeutic.

20 Q. Okay. But they are not providing
21 foster care services right now, they're closed?

22 A. That is correct.

23 Q. Okay. And what about The Bair
24 Foundation, is that therapeutic or nontherapeutic?

25 A. They're both.

1 Q. And for about how long have they been
2 licensed as a CPA in South Carolina?

3 A. More than ten years.

4 Q. Okay. And then what about the entities
5 that we talked about earlier, the SAFY entities, is
6 that therapeutic or nontherapeutic or both?

7 A. They're providing both therapeutic and
8 nontherapeutic services and more than ten years.

9 Q. Perfect. You're asking the questions
10 for me now. This is great. Okay.

11 So can you describe for me generally
12 what role child placing agencies, private child
13 placing agencies, play in the foster care system in
14 South Carolina?

15 A. Sure. I'll talk about it in sort of
16 two roles. They're one as a child placing agency
17 as an entity itself, and so the agency would make
18 an application with the Department to become a
19 licensed child placing agency for the state.

20 In that request they are asking to be
21 considered for licensure to be able to provide
22 foster care services, meaning that they can
23 recruit, train, license families or make
24 recommendations for licensure to the Department.
25 That's the agency license. And that license for

1 the agency is renewable annually. So they have a
2 license that's good for one year and then they go
3 through the process again for the renewal.

4 The second part to that with the child
5 placing agencies is that they are recruiting
6 families or individuals who want to be licensed to
7 provide foster care services for children who are
8 in need of out-of-home placements or in need of
9 temporary foster care services. So those
10 individuals or families would make application to
11 one of those CPAs.

12 And they go through an application
13 process, submit the required documentations to be
14 reviewed, evaluated, and then the applicant or the
15 family, individual, submits to a home study process
16 in that one of the workers from the child placing
17 agency would meet with the family, conduct a
18 walk-through of the home, assess the family,
19 interview household -- applicable household
20 members, arrange for inspections through partner
21 agencies, like our state fire marshal as well as
22 our state health and sanitation for those
23 requirements.

24 The family would pass those
25 requirements and then the CPA would complete the

1 written home study assessment, submit that to the
2 Department or DSS and recommend the family for
3 licensure. DSS receives the information, reviews
4 it. And if they are in agreement or we are in
5 agreement with that, would issue the license for
6 that family for the CPA.

7 Q. Okay. Great. That's extremely
8 helpful. I'm going to ask some more -- some more
9 detailed questions about some of the steps of that
10 process.

11 So you mentioned that the private CPAs
12 will recruit families who are interested in being
13 foster families. How did they go about that
14 recruiting? What did they do to recruit potential
15 foster families?

16 A. Individual CPAs may do print media,
17 other communications, mail-outs, have workshops or
18 presentations in the community. So there are a
19 number of ways that they get information out to the
20 public about the need for foster parents or to be a
21 foster parent with a specific child placing agency.
22 They have billboards, there are yard signs, word of
23 mouth, speaking engagements, so there are a number
24 of ways that a CPA may go about asking for
25 individuals to become licensed with their agency.

1 Q. Do they ever recruit potential foster
2 parents like through particular communities, for
3 example, through a church or a house of worship?

4 A. They may, um-hum.

5 Q. How about in the LGBTQ community?

6 A. We do not restrict anyone from whatever
7 method of communication. So if they recruit
8 through a particular group, that's certainly
9 acceptable. We are looking for individuals who
10 want to foster and care for children that are in
11 need of placement.

12 So each CPA also develops an
13 individualized recruitment plan in terms of what
14 families they would like based upon what they see
15 as a need. And so we don't restrict a CPA from any
16 recruitment method or population or avenue for
17 recruitment. That's left to each CPA.

18 Q. Okay. And personally what percentage
19 of the foster families in South Carolina would you
20 say are recruited by private CPAs?

21 A. So probably an equal amount from the
22 Department as well as from private CPAs.

23 Q. Okay.

24 A. Or decide, you know, whether they want
25 to go to DSS or whether they want to go to one of

1 the CPAs, so I think it's pretty equal.

2 Q. It's about 50/50. Okay. All right.

3 We'll get back to the DSS role in a minute. So you
4 mentioned -- you mentioned some of the work that
5 the private CPAs would do to assist the families in
6 the application process to become -- to become
7 licensed, right? Do the CPAs help the families
8 complete the application?

9 A. That's left to the CPA. If they've
10 identified that the family needs assistance with
11 completing the application, they may.

12 Q. Okay. And I think you mentioned that
13 the private CPAs will actually perform the home
14 study or will do the home study themselves, is that
15 right?

16 A. Yes.

17 Q. Okay. And then the -- and then the
18 CPAs will take that information and ultimately make
19 a recommendation to DSS as to whether the foster
20 family should be licensed -- the prospective foster
21 family should be licensed, is that right?

22 A. That's correct.

23 Q. Okay. And am I right that it's only --
24 it's only DSS itself that can actually issue a
25 license to foster -- to a prospective family to be

1 a foster family?

2 A. Yes.

3 Q. The CPAs themselves can't actually
4 license the families to be foster families, right?

5 A. The CPAs do not issue a license. They
6 make a recommendation and submit that to DSS. DSS
7 is the entity for the state that issues foster
8 family licenses.

9 Q. And generally speaking does DSS tend to
10 follow the recommendations that it receives for --
11 from the private CPAs with respect to whether a
12 given family should be licensed as a foster family?

13 A. Yes. I will add there may be some
14 situations where the CPA has questions or are not
15 really sure, have concerns, they may discuss those
16 with my team and we will review the information.
17 They consult with our office of general counsel to
18 make a recommendation for the family moving forward
19 with licensure. But those are very, very few.

20 Q. Okay. So as a general -- sort of as a
21 general role, DSS will follow the recommendation
22 that comes from the CPA, but there may be some
23 instances where there would be questions or where
24 DSS would depart from the CPAs recommendation with
25 regard to licensing, is that fair?

1 A. That's fair.

2 Q. Okay. When they make their -- when
3 they make their recommendations to DSS with respect
4 to whether a prospective foster family should be
5 licensed, do you know whether CPAs take into
6 account factors like the family's religion?

7 A. That is a question that's asked in
8 terms of how important religion is to the applicant
9 and so that would be a part of the written home
10 study assessment that's submitted.

11 Q. Okay. So the home study would include
12 or would answer questions regarding what -- you
13 know, whether the family follows a particular
14 religion, whether they go to services, is that
15 the -- are those the type of questions that would
16 be -- would be considered?

17 A. It would be general questions like
18 that, yes.

19 Q. Okay. How about sexual orientation?
20 Are there -- are there questions as part of the
21 home study that go to the family's sexual
22 orientation?

23 A. What I'm aware of is that there is a
24 question about household composition. We look at
25 the relationship of the household members and

1 whether they are married, in a committed
2 relationship. That's how that's addressed on the
3 application, the home study and for our data
4 system.

5 Q. Okay. If a CPA, a private CPA, were to
6 recruit a family and to work with the family going
7 through the application process and the home study,
8 are there situations where they -- where a CPA
9 might determine not to recommend the family for
10 licensure with DSS?

11 A. Yes.

12 Q. And what -- what might be some of
13 the -- some of the reasons why a CPA would not
14 recommend a family for licensure?

15 A. A few reasons would be the medical, so
16 the applicants have to complete a medical
17 evaluation report. The physician completing that
18 or healthcare practitioner may not recommend the
19 applicant for various reasons. It may not be
20 advisable due to health conditions.

21 Another one could be related to
22 finances, for instance, in that the family expenses
23 exceed their income and it would not be recommended
24 for them to be licensed. Also, it could be
25 capacity in the home, that maybe there's not enough

1 bed space or household members own care needs may
2 exceed what would be time available for care and
3 all that is in foster care. So those would be some
4 of the reasons that a family may not be
5 recommended.

6 Q. Okay. And if -- if a CPA reaches that
7 determination during the process of working with
8 the family, does the CPA have to let DSS know,
9 basically say, hey, we have this family, we've
10 got -- you know, we went through the process but
11 we've determined not to recommend them?

12 A. They do not, but they do have to inform
13 the family of the reasons why they would not be
14 recommended for licensure.

15 Q. Okay. And the -- sort of the role that
16 the private CPAs play and the support that they
17 provide prospective foster families throughout the
18 application process, is that -- is that pretty
19 uniform or pretty standard across CPAs or are there
20 differences in the type of support that one CPA
21 might offer versus another?

22 A. I'm not aware of any differences for
23 the most part. I do know that they would work with
24 the applicants providing the home visits,
25 interviewing licensure. And then once the

1 applicant or family is licensed, going to the home,
2 meeting with the family -- meeting with the family
3 to offer support.

4 Q. Okay. I'm just looking at the -- at my
5 transcript here to make sure I got that.

6 A. Yeah, I saw where it was unstable. I
7 just didn't know if I needed to repeat.

8 Q. I see. So I believe you said I'm not
9 aware of any differences for the most part, I do
10 know that they would work with the applicants
11 providing the home visits, interviewing licensure,
12 and then once the applicant or family is licensed,
13 going to the home meeting with the family to offer
14 support.

15 A. Yes.

16 Q. So there's -- there are -- there's a
17 role that the CPAs fill after -- after the family
18 is licensed by DSS, is that right?

19 A. That is correct.

20 Q. And what -- how do they -- what type of
21 support do they typically provide after the
22 family's been licensed?

23 A. As part of the ongoing licensing
24 process, the family has an assigned -- for DSS it's
25 a family support worker for the CPA that's a family

1 worker that will visit with the family in the home
2 on a quarterly basis, but they may go more often
3 depending upon the needs of the family as well as
4 the children's place.

5 And it's an opportunity to meet with
6 the children, meet with the family to discuss any
7 concerns, to hear from them how things are going,
8 to answer questions, to make sure they are
9 connected to services and identify any unmet needs
10 to see what resources the family may need and then
11 also to see if there's been any changes that need
12 to be reported that may impact the continued
13 eligibility for licensure. So it's a means of
14 staying connected with the family to offer support
15 to the family as well as to any children that might
16 be placed.

17 Q. And is there a system in place by which
18 the CPA would report back to DSS about a given
19 family that has had a child placed with them and
20 how everything is going or is that not a formalized
21 process?

22 A. It is a formalized process in a couple
23 of ways. If there is a child placed, that there's
24 a foster care worker with the Department, so any
25 concerns about the child in the home will be

1 reported to the DSS foster care worker. If there
2 are concerns regarding the foster home in terms of,
3 say, any regulatory requirements, sanitary
4 conditions, those things would fall for licensure
5 and would be reported to the licensing worker.

6 So -- and then they also document
7 quarterly on a form, it's a standard form, about
8 the condition of the home, how the needs of the
9 child are being met, if there are any changes in
10 composition, in employment, any of those things
11 that would impact licensure.

12 So there's a formalized process where
13 information is shared and reported to the
14 Department, but at any time they can certainly pick
15 up the phone or e-mail any of those concerns, they
16 don't have to wait for those specific timeframes,
17 but it's an ongoing communication flow from the CPA
18 to DSS and vice-versa.

19 Q. Okay. And in addition to the sort of
20 regular contact that the CPA would have with the
21 family that it had recruited and that had been
22 licensed, every -- am I right that every foster
23 child has a DSS caseworker that's assigned to them,
24 is that right?

25 A. Yes.

1 Q. Okay. And that caseworker is -- as a
2 DSS employee is not affiliated with the private CPA
3 that might be involved with the family, right?

4 A. Yes, there's a DSS caseworker.

5 Q. Okay. And you had mentioned earlier, I
6 think we had said that about 50/50, about half of
7 the foster families in the state are recruited by
8 private CPAs and about half of them are recruited
9 directly by DSS, is that right?

10 A. Yes. Roughly, yes.

11 Q. Roughly. And how does -- how does DSS
12 go about recruiting families to serve as foster
13 families?

14 A. The Department fosters with the state
15 foster parent association, who also message the
16 need for foster families. They go about
17 information on social media, print media, other
18 groups that partner with the Department through
19 billboards, messaging, some of the same recruitment
20 efforts as our child placing agencies.

21 Q. Okay. And then what is the -- well,
22 just -- let me back up for a second.

23 Does DSS recruit through particular
24 communities, through churches or other houses of
25 worship, for instance?

1 completing the application process?

2 A. Overall statewide, we probably have
3 about 50 or so. We've had turnovers, so that's
4 across the state that are working either to
5 initially license the family and then the staff
6 that are there to support the family once they're
7 licensed.

8 Q. Okay. And how about in the upstate
9 region in particular, do you have a sense of that?

10 A. For the upstate, there's probably about
11 five, less than ten workers who are doing the
12 initial licensing and a supervisor as well as a
13 program coordinator that oversee that work.

14 Q. Okay. And so that group -- that group
15 of folks is handling we said about 50 percent of
16 the -- you know, the prospective foster families
17 that are being evaluated, is that right?

18 A. Right. The statewide, yes. But if you
19 want to compare that to the upstate region versus
20 what CPAs in the upstate are doing, then, yes, it's
21 about the equal amount of work.

22 Q. Okay. So the about 50/50 split that
23 we've talked about, that applies both statewide and
24 statewide upstate region in particular?

25 A. I won't say 50 percent upstate. I

1 don't have numbers for -- specific for upstate.

2 Q. Is it generally in that ballpark would
3 you say?

4 A. As compared to statewide or just to --

5 Q. Yeah.

6 A. -- upstate?

7 Q. As compared to -- I'm just trying to
8 understand for the upstate in particular how
9 much -- you know, how many families are being
10 recruited and working directly with DSS versus
11 working with the private CPAs.

12 A. I can't answer that right now. I don't
13 know.

14 Q. Okay. Do you have any reason to
15 believe that it's markedly different from that
16 50/50 split that we've talked about statewide?

17 A. I don't think it's markedly different.
18 I will say, though, that for the past year or so
19 we've only been doing the non-kin licensing, so
20 we're not right now even seeing the, you know --
21 we're only doing kin, I should say. The non-kin
22 are being referred to our CPAs, so those numbers
23 would look different now and so that's why the
24 50/50 split won't really apply today because of
25 that shift in our workload.

1 Q. Okay. So you said about a year or so
2 ago there was a change such that DSS is only
3 handling directly families that are interested in
4 providing kinship care? Did I get that right?

5 A. That's correct.

6 Q. Okay. And when we talk about kinship
7 care, what does that mean?

8 A. So the kinship care are those children
9 who are entering care and instead of going to an
10 unrelated individual or family, that the Department
11 would identify a relative or a next of kin, some of
12 the kin being someone who has a significant
13 relationship with the child, who knows that child
14 and is interested in being licensed to care for
15 that child to prevent going into an unrelated
16 foster family home.

17 Q. Okay. And so currently then and for
18 about the past year, families that were seeking to
19 become foster families outside of the kinship care
20 piece of it, they no longer have the opportunity of
21 working directly with DSS to go through the
22 application and licensing process, is that right?

23 A. The focus is that DSS would do the kin.
24 Now, if the family is unable to work with a CPA,
25 they certainly would come to DSS. I mean, we are

1 the entity that's responsible for licensing, would
2 have to, you know, have that as an avenue for
3 families as well, but our directive or guidance to
4 families is that they go with one of the child
5 placing agencies and then -- because our focus is
6 for the kin work. But if the family is unable to,
7 they can certainly come to DSS and we would work
8 with the applicant.

9 Q. What -- what would be a reason why a
10 family would be unable to work with a CPA?

11 A. I'm trying to think. I can't think of
12 a reason right now other than sometimes there's
13 personality conflicts and people just don't get
14 along. But, you know, we all have the same
15 regulations and guidance for applicants to work,
16 whether it's DSS or whether it's a child placing
17 agency, and so we have not had situations where
18 families were not able to go to a CPA since we've
19 made this change. And so, you know, I can't think
20 of a situation other than maybe folks just don't
21 get along.

22 Q. Okay. Fair enough. And so the numbers
23 that we talked to -- talked about before, that sort
24 of general statewide 50/50 split between families
25 that work with private CPAs and families that work

1 directly with DSS, that would have applied in the
2 period before this change where DSS is focused more
3 on the kinship care piece of it, right?

4 A. Yes. Yes, that's correct.

5 MS. JANSON: Okay. All right. Great.
6 So -- and, you know, we've been -- I think we've
7 been going -- I don't know what time we started,
8 but we've been going for, I don't know, an hour and
9 15 minutes or so. How are you -- how are you
10 feeling? Would you like to take a break now or
11 would you like to keep going for a bit?

12 THE WITNESS: I think we'll take a
13 break right now.

14 MS. JANSON: Okay. That sounds great.
15 Let's go ahead and take our first break then and --
16 it's 10:45, so why don't we plan to be back and
17 ready to go at 11:00?

18 THE WITNESS: Sounds good.

19 MS. JANSON: Okay. Great.

20 VIDEO TECHNICIAN: We are now going off
21 the record. The time is 10:45 AM.

22 (A recess transpired.)

23 VIDEO TECHNICIAN: We are now going
24 back on the record. The time is 11:03 AM.

25 BY MS. JANSON:

1 Q. Great. Okay. So just a couple things
2 I wanted to circle back to that we had touched on
3 before. When we talked about the list of CPAs,
4 there were a couple I just wanted to confirm
5 whether they provide nontherapeutic or therapeutic
6 services or both. And those that are new
7 foundations, do they -- which type of foster care
8 services do they provide or is it both?

9 A. Nontherapeutic.

10 Q. Okay. And how about South Carolina
11 Youth Advocate Program?

12 A. Both.

13 Q. Both? And are those both active in the
14 upstate region?

15 A. Yes.

16 Q. And then of the list that we went
17 through, and I'm just going to go through it
18 quickly, what I'd like to know for each of these is
19 whether they actually have an office located, you
20 know, a location located in the upstate region.

21 A. Okay.

22 Q. So Connie Maxwell?

23 A. Yes.

24 Q. Epworth?

25 A. Yes.

1 Q. So, for instance, Church of God Home
2 For Children, is that a -- is that a group home?

3 A. They are the child placing agency and a
4 group home.

5 Q. Okay. So they do -- they do both the
6 work that we've been talking about and -- and they
7 are a group home?

8 A. Yes.

9 Q. Okay. And all of the other ones on the
10 list, the upstate region CPAs providing
11 nontherapeutic foster care, they all work directly
12 with recruiting families and helping families get
13 licensed?

14 A. Connie Maxwell has a group home and a
15 CPA. Thornwell has a group home and a CPA. I
16 believe -- and Epworth has a CPA and a group home.

17 Q. Okay. And also for that same list,
18 I'll go through them -- I'll go through them each
19 one by one, but what I'm interested in knowing is
20 approximately how many foster families does each of
21 those CPAs have that are currently licensed that
22 they're currently working with that have foster
23 children placed with them right now. If I walk --
24 if I run through that list, will you be able to
25 give me a general sense of that?

1 A. Probably not. Not offhand today.

2 Q. Okay. Are there -- okay. All right.

3 We can -- we'll follow up on that. Okay.

4 And then we talked just -- we talked
5 briefly about how DSS assigns a caseworker to each
6 foster child within the system. Do -- am I right
7 that there is not a separate caseworker assigned by
8 a CPA to each child?

9 A. Correct. The CPA assigns a family
10 worker and so that worker is visiting the foster
11 family and seeing the child that's connected with
12 that family.

13 Q. Okay. And then you had described the
14 change that occurred, you know, about a year ago
15 such that DSS is focusing on the kinship care piece
16 as opposed to, you know, I'll call it traditional
17 foster care. Can you just explain to me why that
18 change took place?

19 A. So it was an effort to streamline some
20 of the processes and focus on the kinship care work
21 because we were wanting to have children connected
22 with their families as opposed to an unrelated
23 individual whenever possible as well as some
24 staffing issues for the Department and that our
25 work would be more focused for the kinship care.

1 And so for those children who we could
2 place with relatives, we could immediately license
3 with a provisional license and they wouldn't be
4 with an unrelated person while the family was
5 going -- the kin family was going through the
6 licensing process. And so that change occurred
7 effective July 2020, so it's been almost a year
8 through that process, but that -- that was the
9 reason to focus those efforts for the kinship care
10 and have children with their families.

11 Q. You mentioned there were some staffing
12 issues in the Department. What were those staffing
13 issues?

14 A. Turnover.

15 Q. Having some -- can you tell -- having
16 some DSS employees who worked with the recruiting
17 and supporting of foster families? Was there a
18 reduction in the number of staff members that DSS
19 had performing that work?

20 A. There was turnover on the foster care
21 side of the house. We -- and the licensing was
22 granted specific staff and positions to do the
23 kinship care work. So some of the work was just
24 shifted, if you will, to our initial -- what we
25 call our initial licensing team who would work with

1 families on the front end and so we had specific
2 staff assigned for kinship care.

3 Q. Okay. Was there a concern that DSS
4 staffing-wise wasn't able to handle the -- sort of
5 the number of families that were interested in
6 fostering or to do that recruiting and supporting
7 of foster families who were interested in the
8 traditional foster care as opposed to kinship care?

9 A. I don't think it was so much that the
10 Department couldn't handle that. It was more that
11 the agencies or the department's focus shifted to
12 the kinship care licensing and so wanted to direct
13 those efforts and staff towards the kinship care
14 licensing, and so this was an opportunity for the
15 CPAs, the child placing agencies, to do the non-kin
16 licensing.

17 Q. Okay. In general before that change
18 occurred where DSS was focused on the kinship care
19 piece, on average how long would you say it would
20 take for a foster family, a prospective foster
21 family, to -- to be licensed by DSS starting from,
22 you know, when they were initially recruited or
23 when they first expressed interest all the way
24 until when they were licensed to serve as a foster
25 family?

1 A. Sure. And so our tracking for time to
2 licensure begins at the point the family signs an
3 application. So they may have an interest six
4 months, 12 months prior when we're not tracking
5 that. But at the point that they sign an
6 application, the clock starts for us and we have
7 120 days to process an application for licensure.
8 That's per regulations.

9 And there are certainly circumstances
10 where an application would be stayed, meaning that
11 we wouldn't take action because of some requirement
12 that is outside of the family's control in getting
13 a document or a piece of information to us to
14 determine eligibility.

15 But on average, we were within that 120
16 days. At one point in time it was 112 days, others
17 was just right around that 120-day mark. And
18 again, that's when the point that the family signs
19 the application to the point that the license is
20 generated.

21 Q. Okay. And you said there are certain
22 situations when that time period might be stayed.
23 How often does that tend to happen?

24 A. It does not. The rare circumstance
25 would be if the family is, say, leaving another

1 now, so no thank you?

2 A. No.

3 Q. Okay. Has the list of CPAs that we
4 went through both with respect to the state as a
5 whole and the upstate region, has that group of --
6 or those groups of CPAs, has their makeup changed
7 significantly over the past five years or so?

8 A. And what do you mean by their makeup?

9 Q. Like are there times when new CPAs get
10 licensed and start performing foster care services?

11 A. Oh, yes. We have new child placing
12 agencies that inquire about licensure and some
13 become licensed, so there are some that's not
14 listed here that have been licensed that's the past
15 year.

16 Q. Are any of those newly licensed CPAs
17 ones that provide nontherapeutic foster care in the
18 upstate region?

19 A. No. And they have not -- they're so
20 new that they have not recruited any families to
21 become licensed yet, so we have not issued
22 individual family licenses, we have licensed the
23 agency itself. So the entity is licensed --

24 Q. Okay.

25 A. -- to work in South Carolina.

1 Q. Okay. And are there situations when a
2 CPA, I think we mentioned -- we mentioned one
3 before, I think, Tamassee, but are there situations
4 when a CPA would stop providing foster care
5 services in South Carolina?

6 A. Yes.

7 Q. And let's talk about CPAs just as an
8 example. Can you explain why they -- why they
9 stopped?

10 A. A CPA may elect on their own to
11 voluntarily end services. LifeShare, for instance,
12 ended services several years ago. They were a
13 smaller group and they just did not produce
14 families to sustain. And JusticeWorks was the
15 same. They were a smaller group that came into
16 South Carolina and just did not produce to be able
17 to be sustainable.

18 Q. And would you say it's relatively rare
19 that a CPA would decide to stop providing services
20 or, you know, how many times would you say that's
21 happened in, you know, ten years or so?

22 A. Probably on average maybe one a year or
23 so. And we usually see that with the newer ones
24 that start up and they generally don't make it past
25 the first year. And during that time, there's not

1 even the recruitment of families to license or take
2 through the process, so those are the ones that we
3 see close within that first year of being licensed.

4 The ones who've been in existence for
5 years tend to, of course, remain because they have
6 families, they have the resources to operate, but
7 the newer ones have not been able to sustain and
8 make it past the first year.

9 Q. Can you think of an example of a time
10 when a more established CPA had to close its doors
11 and stop providing foster care services?

12 A. I cannot.

13 Q. If that were to happen and the CPA had,
14 you know, a network of families that it was working
15 with and supporting, you know, in -- through the
16 application process as well as those that had been
17 licensed and it had to shut its doors or stop
18 providing foster care services, what would -- what
19 would DSS do to basically fill the gap left by the
20 closure of that -- of that agency?

21 A. And if I could go back and correct, I
22 just recall Neighbor -- I think it was Neighbor To
23 Family was a child placing agency that was in South
24 Carolina and they opted to close a few years ago
25 and they offered the families to go to another CPA.

1 And so the Department did work
2 alongside. The families had freewill, so they
3 chose. They were presented the names for each of
4 the licensed child placing agencies and then the
5 families themselves decided which agency they
6 wanted to transfer to. So I do recall that was
7 Neighbor To Family was the name of that child
8 placing agency.

9 Q. Okay. And so the families that had
10 been working with Neighbor To Family were given the
11 option of then moving to work with one of the
12 other -- one of the other CPAs. Is Neighbor To
13 Family Region 1 or is that a different area of the
14 state?

15 A. Different area of the state.

16 Q. Okay. But they were -- they were given
17 the opportunity to then affiliate with a different
18 CPA, is that right?

19 A. With a different -- with a different
20 CPA or with DSS. And some of them elected to
21 close, so that was an option for them as well.
22 They could go to a CPA, to DSS, but then some
23 decided not to continue licensing.

24 Q. When you say some of them decided to
25 close, you mean the foster families decided to stop

1 being foster families?

2 A. Yes.

3 Q. Okay. And was that the -- do you know
4 whether that was the case for just a few or?

5 A. I'm sure it probably was a few. If any
6 of them did that, it wasn't many. It wasn't a
7 large number of families with the Neighbor To
8 Family organization, and so I'm pretty certain it
9 was -- if there was any, it was just a few.

10 Q. Okay. And so generally those families
11 that had worked with Neighbor To Family were able
12 to -- to move to a different CPA or to DSS and to
13 continue serving as foster families?

14 A. Yes.

15 Q. When -- would the -- would there have
16 been any change in the caseworker relationships,
17 the DSS caseworker relationships, as a result of
18 the closure of a CPA like that?

19 A. No. For the child?

20 Q. Yes.

21 A. No, there would not. So the child
22 worker is assigned from DSS, so there wasn't a
23 change on the DSS side but certainly on the side of
24 the CPA, so they would have a new family worker
25 once they moved to a different child placing

1 agency, but DSS remained consistent.

2 Q. Okay. And when -- when a CPA closes
3 and stops providing foster care services for
4 whatever reason, what happens -- is the money that
5 would have gone to that CPA, the funding from the
6 government, is that reallocated to the existing --
7 to the remaining pool of CPAs?

8 A. So the payment is for reimbursement for
9 the child. So wherever that child is placed, the
10 money would then follow that child in placement.

11 Q. Okay. Now, have -- you know, I think
12 we've been talking about times when CPAs
13 voluntarily decide to cease providing foster care
14 services. Has DSS ever terminated a CPA's license?

15 A. DSS has not.

16 Q. Okay.

17 A. That I'm aware of. And since I've been
18 in my role, I'm not aware of any that's been
19 terminated.

20 Q. So that's -- and when you say your
21 role, do you mean your current role or your full
22 tenure at DSS?

23 A. Since 2011 I'm not aware of any CPAs
24 whose licenses were terminated by DSS.

25 Q. Okay. Great. Okay. We've talked --

1 we've talked a little bit about -- about Miracle
2 Hill Ministries so far. And Miracle Hill is a CPA
3 that provides nontherapeutic foster care in
4 Region 1, right?

5 A. That's correct.

6 Q. Prior to the filing of this lawsuit,
7 did DSS become aware that Miracle Hill was refusing
8 to work with prospective foster families because of
9 their religion?

10 A. During the license renewal period I
11 believe for the 2018 renewal, the licensing worker
12 in review of information that was submitted as well
13 as a review of their website, it was discovered
14 that there was information that could be considered
15 discriminatory.

16 Q. Okay. When you say review of
17 information that was -- that was submitted, that's
18 information that was submitted by Miracle Hill in
19 connection with its license renewing -- renewal
20 application?

21 A. Yes.

22 Q. And do you know what specific
23 information that was?

24 A. So documents like related to their
25 policy. We do a policy review if there are any

1 updates or whether looking for certain things, for
2 instance, related to disaster planning, how they
3 interact with families, what are their
4 requirements, staffing requirements.

5 And so the application is reviewed.
6 Information for staff, medical, background check
7 requirements, all of those documents are all
8 reviewed, and I believe it was found within their
9 policy as part of the license renewal that it was
10 discovered.

11 Q. Okay. And prior -- prior to that 2018
12 licensing renewal period, did DSS or had DSS ever
13 received a complaint from a family, an applicant,
14 who had been rejected by Miracle Hill because of
15 their religion?

16 A. Not that I'm aware of.

17 Q. And prior to the filing of this
18 lawsuit, did DSS become aware that Miracle Hill was
19 refusing to accept prospective foster parents
20 because of their sexual orientation?

21 A. No, just during the license renewal was
22 the information we found.

23 Q. But did that -- did that information
24 suggest to DSS that Miracle Hill was -- would
25 refuse to work with a prospective foster family if

1 they were a same sex couple or an LGBTQ individual?

2 A. That was not. I believe it was related
3 to religion.

4 Q. Okay.

5 MS. JANSON: Cris, why don't we put up
6 Tab 39.

7 MR. RAY: That exhibit has been
8 introduced.

9 MS. JANSON: What number are we on
10 here?

11 MR. RAY: That is 4.

12 (EXHIBIT 4, E-mail chain dated 3/16/18
13 to Chrysti E. Shain and Brian Symmes from Karen L.
14 Wingo, ROGERS_MCMMASTER_000028 to 000032, was marked
15 for identification.)

16 BY MS. JANSON:

17 Q. Okay. So we're introducing -- we're
18 marking as Exhibit 4 an e-mail chain that -- the
19 top e-mail in the chain is from Karen Wingo to
20 Chrysti Shain and Brian Symmes, subject line draft
21 response. It's dated March 16th, 2018 and it bears
22 Bates numbers Rogers_McMaster_000028 through 32.
23 Do you have that in front of you?

24 A. I do.

25 Q. Okay. You can feel free to scroll

1 through it and to familiarize yourself with it, but
2 I just want to ask you about the date at the top
3 e-mail in the chain.

4 A. Okay. I've read it.

5 Q. Okay. Have you seen this document
6 before?

7 A. I have not.

8 Q. And can you tell me who Karen Wingo is?

9 A. Karen Wingo is a former employee of DSS
10 and she's as listed there director of
11 communications and legislative affairs.

12 Q. So she no longer works with DSS?

13 A. That's correct.

14 Q. Okay. If you read -- if you read the
15 first paragraph of that e-mail, it says -- there's
16 a reference to Miracle Hill there. Do you see
17 that?

18 A. I do.

19 Q. Okay. And then when you read the
20 second paragraph, that reads: To our knowledge, no
21 other CPAs restrict services based on sexual
22 orientation of the foster or adoptive parents.

23 Do you see that?

24 A. I do.

25 Q. Okay. And the fact that it says no

1 licensed child placing agency to families who are
2 not specifically Christians from a Protestant
3 denomination.

4 Do you see that language there?

5 A. Yes.

6 Q. Looking back at Exhibit 8, the note to
7 file, would you agree with me that that summary of
8 the conversation on January 18th, 2018 does not
9 reflect that Beth Williams said Miracle Hill would
10 refuse to provide its services to families who were
11 not Protestant Christian?

12 A. That it does not reflect?

13 Q. Yeah.

14 A. I think it's -- it reflects. There
15 was -- it was nonresponsive, so that's the basis
16 for how this is crafted in -- in the letter that I
17 signed, that we did not have a clear indication
18 from Miss Williams.

19 Q. Okay. What -- the way -- the way I
20 read this is like you said, you know, Lauren posed
21 the question if she were an applicant and was not
22 comfortable giving a personal statement or if not
23 active in a church, would she be screened. Beth
24 did not answer the question posed.

25 So there's some ambiguity there. Does

1 that -- did that suggest that there were -- there
2 were other conversations between Miracle Hill and
3 DSS prior to when you sent the January 26th letter
4 during which Miracle Hill would have definitively
5 said we are not going to provide services to
6 non-Protestant Christian families?

7 A. I don't recall any conversation --
8 additional conversations with -- with me or with my
9 team.

10 Q. Okay. Okay. And then going back to
11 the January 26th, 2018 letter. On the second page
12 of that letter that is Exhibit 7, you -- the first
13 line on that page says: Such discrimination on the
14 basis of religion contravenes the following
15 regulations and policy.

16 And it goes through a number -- a
17 number of numbered -- numbered paragraphs there.
18 The first one makes reference to the South Carolina
19 Code of Regulations. Do you see that there?

20 A. I do.

21 Q. Okay. And then the second paragraph
22 references a couple of provisions from the Code of
23 Federal Regulation, is that right?

24 A. That is correct.

25 Q. And then the third paragraph -- or,

1 sorry, that would be the second answer of
2 paragraphs. Then the fourth paragraph references a
3 DSS policy, is that right?

4 A. That's correct.

5 Q. And then -- and then finally in the
6 paragraph below, there is a reference to Miracle
7 Hill's own policy which had been submitted in
8 support of its license renewal application, is that
9 right?

10 A. That is correct.

11 Q. Okay. With respect to the DSS policy,
12 it's referenced there as DSS Policy Section 710,
13 and it says -- it's quoted. It says: The agency
14 is committed to the exercise of nondiscriminatory
15 practice and shall provide equal opportunities to
16 all families and children without regard to their
17 religion.

18 Do you see that there?

19 A. Yes.

20 Q. Why is it that DSS prohibits
21 discrimination against foster families based on
22 their religion?

23 A. And it's one of the protected groups
24 and the Department wants to be inclusive to all
25 applicants who want to foster or -- and/or adopt

1 through the Department.

2 Q. Does DSS recognize that this
3 nondiscrimination policy serves to increase the
4 pool of available qualified families for foster
5 children?

6 A. I don't know that it increases the
7 pool, but it does allow individuals, whether they
8 are connected to a religious body or not, the
9 opportunity to apply.

10 Q. Does the policy enhance the diversity
11 of the pool of available foster families?

12 A. It does.

13 Q. So then at the end of -- the very last
14 line there on the bottom of the second page of the
15 letter, it says: The Department requests that
16 Miracle Hill address these concerns and issue a
17 written plan of compliance within 30 days of
18 receipt of this letter.

19 Do you see that?

20 A. I do.

21 Q. Did Miracle Hill ever address DSS's
22 concerns as they were articulated in the letter
23 that's Exhibit 7?

24 A. They did not submit to the Department a
25 corrective plan of action.

1 Q. All right. Did they ever -- did they
2 address the concerns that had been raised in any
3 other way?

4 A. No.

5 Q. Okay. And then -- let's see. Looking
6 back just at the first page of that letter in the
7 second paragraph at the bottom. It says: The
8 Department has determined that under these
9 circumstances it is appropriate to issue a
10 temporary CPA license pursuant to South Carolina
11 Code of Regulations and it gives the specific
12 provision.

13 Do you see where that is?

14 A. What page again?

15 Q. It's the first page of the letter in
16 the last sentence of the second paragraph.

17 A. First page, last sentence. I don't see
18 that.

19 Q. It's the second paragraph, the last
20 sentence, where it says: The Department has
21 determined that under these circumstances it is
22 appropriate to issue a temporary CPA license.

23 A. Yes, I see that.

24 MS. JANSON: Cris, can we mark Tab 9?

25 MR. RAY: That exhibit is introduced.

1 It should be Exhibit 9.

2 (EXHIBIT 9, Miracle Hill Ministries,
3 Inc. license, 10545-B-015, was marked for
4 identification.)

5 BY MS. JANSON:

6 Q. So we've marked as Exhibit 9 a document
7 Bates stamped 10545-B-015. And so, Miss Lowe, have
8 you -- do you recognize what this document is?

9 MR. RIDDLE: It's still loading.

10 THE WITNESS: It's still loading.

11 MS. JANSON: Still loading. Okay.

12 Sorry. Getting ahead of myself. Has that popped
13 up for you yet?

14 MR. RIDDLE: It still hasn't. There it
15 goes. Sorry. All right. You said Exhibit 9,
16 right?

17 MS. JANSON: That's right.

18 MR. RIDDLE: Still loading. All right.
19 There it goes. It's only one page.

20 BY MS. JANSON:

21 Q. Okay. So this is -- sorry. I think my
22 question was do you -- do you recognize this
23 document?

24 A. Yes, I do.

25 Q. Okay. And what is this?

1 one year?

2 A. That is correct. On the agency it is
3 good for one year. On the family homes, it's
4 two-year license.

5 Q. Okay. Yeah. On the CPA, yeah.

6 A. Um-hum.

7 Q. And are there -- if a CPA has a
8 temporary license like this one, is there -- are
9 there any -- are there any services that that CPA,
10 you know, can't provide under a temporary license
11 versus a permanent license?

12 A. No, they would continue to operate
13 while they made the corrections or provided the
14 information requested. If there were any
15 restrictions, it would be listed on the license.

16 Q. Okay. Are there any restrictions
17 listed on this license?

18 A. None.

19 Q. With respect to the letter that we've
20 been talking about, Exhibit 7, your January 26,
21 2018 letter to Beth Williams, did you -- did you
22 meet with DSS legal staff before -- well, I know
23 that you had met with Miss Davis before you sent
24 the letter, but did you meet with staff before
25 you -- before you actually drafted the letter?

1 A. Yes, I did.

2 Q. Okay. And was that Miss Davis also or
3 someone else?

4 A. Mr. Catone would have been the other
5 person.

6 Q. And apart from -- from legal counsel,
7 was there anyone else at DSS that you consulted
8 in -- consulted with in drafting the letter?

9 A. No.

10 Q. You didn't speak to the DSS director at
11 the time about the letter?

12 A. I did not directly. Mr. Catone may
13 have, but I did not.

14 Q. So with respect to the temporary CPA
15 license that is Exhibit 9 that was scheduled to
16 expire on July 26, 2018, what -- do you recall what
17 happened at that point? Was there another
18 temporary license that was issued?

19 A. Yes, there was another temporary
20 license that was issued.

21 Q. And would that have also been a
22 six-month temporary license?

23 A. Yes.

24 Q. And when DSS issued that second
25 temporary license, Miracle Hill had not

1 submitted -- addressed DSS's concerns or submitted
2 a compliance plan as requested in the letter,
3 right?

4 A. Miracle Hill had not.

5 Q. So why was it that DSS issued a new
6 temporary license if Miracle Hill had not addressed
7 the concerns that had been raised in your letter?

8 A. It was my understanding that we were
9 being directed from information from the Governor's
10 office. I believe there was some contact from
11 Miracle Hill and we were asked to issue another
12 temporary -- my area was asked to issue another
13 temporary license while the other information was
14 either being gathered or addressed, so I was not
15 involved in those conversations so I don't know
16 what specifically other than being asked to issue
17 a -- to extend the temporary license.

18 Q. So it's your understanding that DSS was
19 directed to issue a second temporary license to
20 Miracle Hill by Governor McMaster's office?

21 A. I don't know that it was from the
22 Governor's office. I know that my general counsel
23 directed me to issue the license.

24 Q. Okay. And that's Mr. Catone?

25 A. Correct.

1 Q. At some point after that second
2 temporary license was issued, was -- was Miracle
3 Hill then reissued a permanent CPA license?

4 A. They were then issued a standard
5 license.

6 Q. Okay. And do you know when that
7 took -- when that happened?

8 A. It would have been like January of
9 2019.

10 Q. Okay.

11 MS. JANSON: Cris, can we put that one
12 up? I don't have the tab number handy, but the
13 permanent license from January 29, 2019.

14 MR. RAY: Yeah, Kate, that's the
15 photograph, right?

16 MS. JANSON: Yes.

17 MR. RAY: Okay. Just one second.

18 MS. JANSON: I'm wondering if it's
19 going to take a minute because of the photo, it's
20 going to be a bigger file.

21 MR. RAY: Looks like it might.

22 MS. JANSON: I can try to just show you
23 this on my screen the way we've done before. Let
24 me see if that works. Okay. Can you see that?

25 THE WITNESS: Yes.

1 BY MS. JANSON:

2 Q. And this -- I apologize that it's --
3 that it's grainy. This is actually -- I zoomed in
4 a portion of a photograph and this was -- this was
5 produced to us and it bears Bates Number
6 Miracle_Hill_Subp_003817. We're going to mark this
7 as -- I think we're on Exhibit 10?

8 MS. JANSON: Is that right, Cris,
9 Exhibit 10?

10 MR. RAY: That's right.

11 (EXHIBIT 10, Photograph,
12 MIRACLE_HILL_SUBP_003817, was marked for
13 identification.)

14 BY MS. JANSON:

15 Q. Yeah. And I know it's a little bit
16 grainy, but does this appear to be the permanent
17 license that was issued to Miracle Hill in January
18 of 2019?

19 A. Yes, it is the license that was issued
20 as a standard license to Miracle Hill.

21 Q. Okay. And at the time that this
22 license was issued in January of 2019, had -- had
23 Miracle Hill submitted a compliance plan as
24 requested in the January 2018 letter?

25 A. No, they had not.

1 Tester.

2 A. Okay.

3 Q. And then we had -- we spoke earlier
4 about, you know, the role that the private CPAs
5 perform in the foster care system for South
6 Carolina. And I understand that one of the things
7 that as part of that role is to take the
8 prospective foster parents that they work with
9 through the application process to become licensed
10 through the home study process and then ultimately
11 to make a recommendation to DSS as to whether that
12 foster family should be licensed. Is that -- is
13 that a fair summary of what we talked about?

14 A. It is.

15 Q. And when a CPA makes that
16 recommendation to DSS that a particular foster
17 family should be licensed, are they making -- are
18 they essentially making a determination that
19 those -- that that -- those parents are suitable to
20 be foster parents?

21 A. They're making the recommendation that
22 they have met the requirements for licensure.

23 Q. And one of those requirements is that
24 they're, you know, suitable to serve as foster
25 parents, right?

1 A. Correct.

2 Q. Okay. And when -- when CPAs are doing
3 this -- this work, we discussed that they -- the
4 CPAs themselves have to be licensed by DSS,
5 correct?

6 A. That's correct.

7 Q. And that an agency can't perform this
8 type of work without a license from DSS, is that
9 correct?

10 A. That's correct.

11 Q. Okay. We also spoke briefly about
12 DSS's own nondiscrimination policy. And I think we
13 looked at it in the context of Exhibit 7, which is
14 the letter that you sent to Beth Williams of
15 Miracle Hill in January of 2018 and we talked about
16 how DSS Policy Section 710 prohibits discrimination
17 on grounds of religion.

18 Just a follow-up question that I had
19 there. Is part of the reason for DSS having that
20 policy because whether someone -- what faith
21 someone believes in, whether they follow no faith
22 at all, that that is unrelated to their ability to
23 be a good parent?

24 A. Yes.

25 Q. So there's no connection between

1 whether someone -- what faith somebody ascribes to
2 and whether they could be a good parent?

3 A. No.

4 Q. So has DSS ever become aware that any
5 other child placing agency apart from -- I'm going
6 to stop sharing my screen. We don't need to look
7 at these topics anymore. Sorry, everybody. There
8 we go. I'll start over.

9 Has DSS ever become aware that any
10 other CPA apart from Miracle Hill discriminates
11 against prospective foster parents on the basis of
12 their religion?

13 A. Not that I'm aware of.

14 Q. How about on the basis of sexual
15 orientation?

16 A. No, not that I'm aware of.

17 Q. Did DSS ever become aware that
18 Southeastern Children's Home discriminates against
19 prospective foster parents on the basis of their
20 religion?

21 A. Not that I'm aware of.

22 MS. JANSON: Cris, do you want to
23 show -- do you want to put up Tab 28 for me?

24 MR. RAY: That exhibit has been
25 introduced.

1 MS. JANSON: Okay. Great.

2 BY MS. JANSON:

3 Q. Before we look at that specifically, is
4 South -- is Southeastern Children's Home a private
5 CPA in South Carolina?

6 A. It is.

7 Q. Do you know -- do you know which region
8 it serves?

9 A. Upstate.

10 Q. It serves the upstate. Okay. And if
11 we take a look at that document in particular -- so
12 we've marked as -- are we on Exhibit 12?

13 MR. RAY: Yes, that's right.

14 MS. JANSON: 12. Okay.

15 (EXHIBIT 12, E-mail dated 10/30/19 to
16 [REDACTED] from Reid Lehman,
17 MIRACLE_HILL_SUBP_003524, was marked for
18 identification.)

19 BY MS. JANSON:

20 Q. We've marked as Exhibit 12 an e-mail
21 from Reid Lehman to -- it looks like someone with
22 an e-mail address [REDACTED] dated October
23 30th of 2019.

24 Have you seen this document before,
25 Miss Lowe?

1 A. I have not.

2 Q. Okay. Take a minute to scan over it
3 and then I'll ask my questions.

4 A. Okay.

5 Q. So in that -- I guess it's the third
6 paragraph down here, Mr. Lehman asks of the
7 recipient of the e-mail, who it looks from the
8 e-mail address is, you know, someone affiliated
9 with Southeastern Children's Home. He says: Would
10 you be -- Robert, would you be willing for me to
11 tell -- sorry. Let me back up.

12 First sentence of the e-mail,
13 Mr. Lehman says Michael Leach will be coming to
14 tour portions of Miracle Home Ministries next
15 Tuesday.

16 Michael Leach is the current director
17 of DSS, right?

18 A. Yes.

19 Q. And then in the third paragraph
20 Mr. Lehman writes: Would you be willing for me to
21 tell him, him being Michael Leach, that
22 Southeastern Children's Home and your board's
23 expectation that you'll recruit only among the
24 churches of Christ.

25 Do you see that there?

1 2018 between Richele Taylor, chief legal counsel,
2 Governor McMaster's office, Beth Williams and Reid
3 Lehman, and it's Bates stamped
4 Rogers_McMaster_00000 -- I think that's the right
5 number, 01 to 3.

6 Is this a document that you've seen
7 before, Miss Lowe?

8 A. I have not.

9 Q. No. Okay. If you look at the
10 beginning of the top of the second page, this is --
11 this is Beth Williams writing to Richele Taylor.
12 And she says: I want to thank you for meeting with
13 Miles and I yesterday regarding the issue between
14 Miracle Hill Ministries and South Carolina
15 Department of Social Services.

16 Do you see that?

17 A. I do.

18 Q. And the reference there to Miles, I
19 believe it's to -- is to Miles Coleman, who is here
20 today. At the time I believe he was counsel for
21 Miracle Hill just to give you the context.

22 Was -- was DSS aware that there had
23 been a meeting between Miracle Hill, its counsel
24 and Governor McMaster's counsel to discuss the
25 issue between Miracle Hill Ministries and DSS?

1 A. Was DSS aware?

2 Q. Yes. It indicates --

3 A. If I'm reading this, it's like DSS was
4 a part of this meeting?

5 Q. Where -- where do you see that in the
6 document?

7 A. Okay. I misread that part, the first
8 instance. So it was a meeting with Miles and then
9 about the issue between Miracle Hill and DSS.

10 Q. Okay.

11 A. But no, I was not aware of the meeting.

12 Q. So to your knowledge DSS was not
13 invited to attend the meeting?

14 A. I'm not aware of that.

15 Q. Okay. And did DSS ever -- ever have
16 any conversations with anyone at Governor
17 McMaster's office regarding the issues in the
18 letter to Miracle Hill that are referenced here in
19 Exhibit 16?

20 A. I was not involved in any of those. If
21 anybody from DSS, it would have been our general
22 counsel.

23 Q. But you're not -- you're not sure
24 whether or not there were conversations?

25 A. I'm not.

1 Q. Okay. Do you know if there had been
2 such conversations, would there likely to be
3 documents that -- that would reflect those
4 discussions?

5 A. I don't know.

6 Q. Okay. And earlier we talked about how
7 DSS issued Miracle Hill a couple of temporary
8 licenses and then ultimately in January of 2019
9 issued Miracle Hill a permanent license at Governor
10 McMaster's direction, right?

11 A. A standard license, yes.

12 Q. And had Governor McMaster not
13 intervened, would -- would DSS have required
14 Miracle Hill to issue and implement the compliance
15 plan that DSS requested in your January 26, 2018
16 letter to Miracle Hill?

17 MR. COLEMAN: Object to the form of the
18 question.

19 COURT REPORTER: Was that you, Miles?

20 THE WITNESS: Yes.

21 COURT REPORTER: Miles, was that you?

22 MR. COLEMAN: Yeah, that was me.

23 BY MS. JANSON:

24 Q. And that letter which again we marked
25 as an Exhibit 7 -- Exhibit 7, your letter to

1 Miracle Hill from January of 2018, that letter
2 indicates that DSS intended to enforce the
3 nondiscrimination regulations and policies
4 mentioned in the letter as to Miracle Hill, right?

5 A. Yes.

6 Q. And there's nothing in the letter that
7 would suggest that DSS intended to waive those
8 nondiscrimination requirements with respect to
9 Miracle Hill, right?

10 A. That's correct.

11 Q. Okay. Okay. So next I want to look at
12 Tab 13 if we can.

13 MR. RAY: That exhibit has been
14 introduced.

15 (EXHIBIT 17, Letter dated 2/27/18 to
16 The Honorable Steven Wagner from Henry McMaster,
17 10545-B-024 to 10545-B-025, was marked for
18 identification.)

19 BY MS. JANSON:

20 Q. Let me know when you have that.

21 MR. RIDDLE: There it is.

22 THE WITNESS: Okay. I have it.

23 BY MS. JANSON:

24 Q. Great. So we're marking as Exhibit 17.

25 This is a letter dated February 27, 2018 to Steven

1 Wagner at the Administration For Children and
2 Families at the U.S. Department of Health and Human
3 Services from Governor Henry McMaster of South
4 Carolina and it's Bates stamped 10545-B-024 through
5 25. I'll give you a second to read through this,
6 but have you seen this document before?

7 A. I have seen this one.

8 Q. You have. And when have you seen it?

9 A. Probably either the day it was issued
10 and sent to us or shortly thereafter.

11 Q. Okay.

12 A. So in 2018.

13 Q. If you want to take just a second to
14 scan through it, feel free to do that and then I'll
15 direct you to the parts that I'm interested in.

16 A. Okay. I've read it.

17 Q. Okay. Great. So if you look on the
18 last paragraph of the letter about halfway through,
19 Governor McMaster writes: I ask that the
20 Department provide a deviation or waiver from its
21 current policy to recruit -- recoup grant funds
22 from DSS if the Department determines the new
23 regulations are violated by any DSS CPA contracts
24 due to religiously held beliefs.

25 Do you see that there?

1 Tony Catone maybe.

2 Q. Okay. And I think we said earlier
3 Karen Wingo doesn't work with DSS anymore, is that
4 right?

5 A. That's correct, she no longer works at
6 DSS.

7 Q. Okay. Does -- so does the fact that
8 DSS was, according to this, working with Governor
9 McMaster to obtain a waiver from the feds, does
10 that represent a change in DSS's position with
11 respect to Miracle Hill's treatment --
12 discriminatory treatment of certain prospective
13 foster parents?

14 A. I don't -- I don't know the answer to
15 that.

16 Q. Okay. So as we talked about before,
17 about less than a month before this, this is
18 February of 2018, and in January of 2018 you sent
19 Exhibit 7, the letter to Beth Williams, that
20 revoked Miracle Hill's standard license and
21 indicated that Miracle Hill was in contravention of
22 certain nondiscrimination policies, is that right?

23 A. That's correct.

24 Q. Okay. And one of the regulations you
25 indicated in your letter that Miracle Hill was in

1 contravention was that -- is that a federal
2 nondiscrimination regulation, is that right?

3 A. That's correct.

4 Q. Okay. And in your letter you indicated
5 that DSS would issue Miracle Hill a temporary
6 license, right?

7 A. Yes.

8 Q. And you asked that Miracle Hill address
9 the issues raised in the letter with respect to its
10 discriminatory treatment of prospective foster
11 parents based on religion and you asked that they
12 submit a compliance plan, is that right?

13 A. Yes.

14 Q. Okay. So what I'm trying to understand
15 is why did DSS go from taking that position and
16 taking those steps to address what it understood to
17 be discriminatory practices by Miracle Hill against
18 prospective foster parents based on religion to now
19 as requested in this document working with the
20 Governor's office to obtain a waiver from the
21 federal nondiscrimination regulations that applied
22 to Miracle Hill?

23 A. And I don't know the answer to that.

24 Q. Okay. And you think the person who
25 would know the answer to that is Mr. Catone?

1 A. That would be my recommendation.

2 Q. Okay. Do you know -- do you know
3 whether at any time Governor McMaster's office
4 inquired of DSS or asked DSS whether the waiver
5 that it was asking, requesting in Exhibit -- now
6 I've lost track of my numbers. Exhibit 17, I
7 believe.

8 Let me start that over. Did Governor
9 McMaster's office ever ask DSS whether the waiver
10 that it was requesting in Exhibit 17 from HHS
11 would, if granted, have an impact on foster care
12 services in South Carolina?

13 A. I don't know that.

14 Q. You don't know. Okay. Did -- did DSS
15 ever study -- conduct any studies or otherwise
16 consider what effects this -- the waiver that's
17 being requested in Exhibit 17 would have on the
18 South Carolina foster care system if granted?

19 A. There were no studies conducted.

20 Q. Was that ever anything that was
21 discussed at DSS?

22 A. Not that I'm aware of.

23 Q. And there weren't any studies conducted
24 by DSS regarding what effects this waiver if
25 granted would have on children in foster care in

1 South Carolina in particular, right?

2 A. No studies were conducted.

3 Q. All right. If we can look back at -- I
4 can't remember which exhibit this one is. I think
5 it's Exhibit 6. Okay. Yep. Exhibit 16. This is
6 the e-mail chain between Beth Williams and Richele
7 Taylor from February 21st, 2018. And on the first
8 page there in the second paragraph --

9 A. We're still getting it.

10 Q. I'm sorry.

11 A. No problem.

12 Q. I'm getting ahead of myself.

13 A. Okay. I have it. 16.

14 Q. And then if we look -- if we look on
15 the second page of that, second paragraph there,
16 Beth Williams is writing and she says: I willingly
17 admit my ignorance on this issue and wanted to ask
18 if the deviation that HHS may grant will cover all
19 faith-based foster care providers in South Carolina
20 or just Miracle Hill. We have many colleagues in
21 other faith-based agencies in the state that are
22 providing foster care. The desire of Miracle Hill
23 is that all faith-based child placing agencies will
24 be covered under this deviation until legislation
25 can hopefully be changed.

1 Do you see that?

2 A. Yes.

3 Q. Okay. And we discussed earlier that
4 Miracle Hill is -- is not the only CPA in South
5 Carolina that discriminates against potential
6 foster parents on the basis of religion, right?

7 MR. COLEMAN: Object to the form of the
8 question.

9 THE WITNESS: So yes, based on the
10 information that was presented here today, yes.

11 BY MS. JANSON:

12 Q. Okay. And in the response here on Page
13 1, Richele Taylor's responding to Beth Williams of
14 the e-mail. The second paragraph there, she says:
15 The letter will request a deviation for all
16 faith-based agencies.

17 Do you see that?

18 A. I do.

19 Q. Do you know whether -- whether anyone
20 at DSS consulted with any child welfare experts
21 about the potential impact of the waiver that
22 Governor McMaster requested, if granted, the
23 potential impact of that on the foster care system
24 in South Carolina?

25 A. I'm not aware that DSS did.

1 Q. Okay. Do you know whether it was the
2 position of -- whether it is the position of
3 Michael Leach that Miracle Hill was the only CPA in
4 South Carolina that needed the waiver that Governor
5 McMaster requested in Exhibit 17?

6 A. Miracle Hill was the only agency that
7 we were aware of that was requesting it.

8 Q. Do you know if DSS faced political
9 pressure to help ensure that Miracle Hill could
10 obtain an exemption or a waiver from the
11 nondiscrimination policies and regulations that you
12 flagged in your January 2018 letter?

13 MR. RIDDLE: Object to the form of the
14 question. This is Jonathan. You can answer.

15 THE WITNESS: Okay. What was the
16 question again?

17 BY MS. JANSON:

18 Q. Yeah. It was not a good question. It
19 was not a good question. Let me try again.

20 Do you know whether there were any --
21 well, I guess start with South Carolina citizens,
22 for instance, that -- that breached that -- that
23 contacted DSS and requested that some sort of
24 exemption or waiver be provided to Miracle Hill to
25 allow it to continue its foster care work while

1 discriminating against potential foster parents
2 based on religion?

3 A. I'm not aware.

4 Q. Are you aware of whether there was any
5 sort of political pressure from -- from
6 politicians -- state-level politicians, folks in
7 federal government, to that end?

8 A. I'm not aware of any.

9 Q. Okay. Did you know whether HHS, the
10 U.S. Department of Health and Human Services --
11 I've been referring to it as HHS. You understand
12 it to be -- to be that?

13 A. Yes.

14 Q. Okay. Do you know whether HHS
15 ultimately granted the waiver that Governor
16 McMaster requested in Exhibit 17?

17 A. Yes.

18 Q. And -- and did HHS grant the waiver?

19 A. I believe that's where the letter came
20 from, yes.

21 Q. Okay. Why don't we take a look at
22 that.

23 MS. JANSON: That will be Tab 23, Cris,
24 if we can mark that.

25 MR. RAY: That's Exhibit 19 and that's

1 been introduced.

2 (EXHIBIT 19, Letter dated 1/23/19 to
3 Governor Henry McMaster from Steven Wagner,
4 Rogers_McMaster_000444 to 000447, was marked for
5 identification.)

6 MS. JANSON: Great.

7 MR. RIDDLE: We're loading.

8 BY MS. JANSON:

9 Q. Okay. Oh, sorry. Let us know when
10 you've got it.

11 A. Okay. I have it.

12 Q. Okay. So we've marked as Exhibit 19 a
13 letter dated January 23rd, 2019 from Steven Wagner
14 at the Administration For Children and Families to
15 Governor McMaster. Have you -- have you seen this
16 document before?

17 A. I have seen this document.

18 Q. And when have you seen it?

19 A. Shortly there in 2019.

20 Q. Okay. Do you want to take a minute to
21 scan through it? I'll direct you to the -- to the
22 portions I'm interested in.

23 A. Okay. Okay.

24 Q. Okay. So if you -- if you skip -- if
25 you skip ahead to the last page of the letter,

1 it's -- it has the Bates stamp ending 447, the top
2 paragraph there.

3 It says: HHS is hereby conditionally
4 granting the requested exception from the religious
5 nondiscrimination requirement of 45 CFR, Section
6 75.300(c). Do you see that there?

7 A. I do.

8 Q. And is that -- that provision that's
9 cited there, 45 CFR 75.300(c), is that the same
10 federal regulation that you had listed in your
11 January 2018 letter?

12 A. I believe that would be. I'd have to
13 look back at that letter to say for certain, but...

14 Q. That one is Tab 7.

15 MS. JANSON: And are you able to pull
16 that up real quickly just so we can confirm that
17 that's the same provision?

18 MR. RAY: There we go.

19 BY MS. JANSON:

20 Q. Okay. So if you look at the second
21 page of that letter, the paragraph marked 3, it
22 says 45 CFR 75.300(c) prohibits discrimination on
23 grounds of religion.

24 So that's that same -- same federal
25 regulation being -- being referenced in the letter

1 from Steven Wagner that we just marked as Exhibit
2 19, right?

3 A. That is correct.

4 Q. Okay. And then looking back at Exhibit
5 19, the language there that I was reading goes
6 on -- goes on to say that the exception applies
7 with respect to Miracle Hill or any other
8 subgrantee in the South Carolina foster care
9 program that uses similar religious criteria in
10 selecting among prospective foster parents.

11 Do you see that?

12 A. Getting back to that one. I do.

13 Q. Okay. So that means that in addition
14 to Miracle Hill, any other CPA in South Carolina
15 that discriminates based on the religion of
16 prospective foster parents is able to take
17 advantage of this waiver, right?

18 A. Yes.

19 Q. And so based on our discussion before,
20 that would -- that would include Southeastern
21 Children's Home, right?

22 A. Yes.

23 Q. Okay. And would that include the CPA
24 that we spoke about, we didn't know which one it
25 was in particular, but it indicated in the document

1 Then that would be something outside of a child
2 being placed with one of their families.

3 Q. So what -- can you give me an example
4 of what -- what other services might be -- might be
5 covered by a contract?

6 A. So a contract could be in place for
7 providing behavioral modification services or
8 what's commonly called BMOD services. And that
9 would be they could provide an individual to do
10 supportive services or mentoring services. They
11 could also do -- have a contract to do diagnostic
12 assessments. So there's different contracts and
13 different provisions of services by different child
14 placing agencies.

15 Q. Okay.

16 A. Foster family licensing is just one
17 component.

18 Q. Okay. But there's no limitation in
19 South Carolina that says there can only be 20 CPAs
20 that provide foster family licensing services, for
21 instance?

22 A. No. There's no limitation.

23 Q. Okay. Okay. And since the waiver that
24 we've been talking about -- which I've now lost.
25 Where is it?

1 The waiver that we -- I think we marked
2 as Exhibit 19, the waiver that was granted from HHS
3 to South Carolina, since that waiver was granted
4 has DSS experienced any drop in the number of
5 potential foster parents seeking licensure?

6 A. We have not. It's been pretty steady
7 in terms of applications to licensure, so there's
8 not been a significant change.

9 Q. And is that -- does that apply both to
10 families that were seeking to be licensed directly
11 through DSS -- to work with DSS through the
12 licensing process versus families that were working
13 with private CPAs?

14 A. That's correct.

15 Q. Okay. Has DSS experienced any -- any
16 change in the number of prospective foster parents
17 that are referred to DSS from private CPAs?

18 A. We've not received a significant
19 number, particularly since we've changed to doing
20 the kinship care licensure. But during the time
21 period before we made the switch, the number of
22 applications we do see a decline.

23 Q. And thank you for the clarification. I
24 should have -- I should have made that clear, you
25 know, that we're talking about the period following

1 when the waiver was granted until before when DSS
2 made the shift to focusing on the kinship care.

3 You said you did -- you have seen --
4 you have seen -- you saw during that period since
5 after the waiver was issued, you saw a decline in
6 the number of applications that DSS received from
7 prospective foster parents?

8 A. Overall. So I believe, if I remember,
9 in '18 it went up a little bit, but then it's been
10 declining '19 and certainly during 2020 there was a
11 decline.

12 Q. And is that just the number -- a
13 decline in the number of applicants that have gone
14 through the application and home study process
15 directly with DSS or is that total, including
16 coming from -- including those who would have gone
17 through the licensing process through the private
18 CPA?

19 A. That's total.

20 Q. Total. Before Governor McMaster's
21 office intervened in the issue between DSS and
22 Miracle Hill with respect to Miracle Hill's
23 license, was DSS prepared to end its relationship
24 with Miracle Hill as a -- as a licensed CPA if
25 Miracle Hill did not comply with the requirements

1 set forth in your January 2018 letter?

2 A. DSS was prepared to terminate the child
3 placing agency license.

4 Q. So we've generally been speaking in
5 your capacity as a representative of DSS. I have a
6 few questions I wanted to ask you just in your
7 personal -- in your personal capacity.

8 And one of those is: Have you
9 personally -- have you ever had conversations with
10 others at DSS or with leadership at DSS about how
11 allowing CPAs to exclude families based on their --
12 their religious beliefs would impact the pool of
13 foster parents available in South Carolina?

14 A. I have not.

15 Q. You have not. Okay. And are you
16 generally aware of if some of the professional
17 standards that govern in the -- in the field of
18 child welfare?

19 A. Yes.

20 Q. And -- and are those standards
21 generally the ones published by CWLA or the Child
22 Welfare League of America?

23 A. Yes.

24 Q. Okay. And does -- and you're familiar
25 with CWLA?

1 A. I am.

2 Q. Okay. And you're familiar with those
3 standards?

4 A. Yes.

5 Q. And are the -- are the standards
6 referred to as the CW -- CWLA standards of
7 excellence?

8 A. Yes.

9 Q. And does DSS use the CWLA standards of
10 excellence as a guide in its -- in its work in
11 foster care and in licensing foster parents?

12 A. Yes, that's -- refers or talks about
13 the standards in its work and some of its
14 practices. It also talks about best interests of
15 children, and so those are some of the guiding
16 principles.

17 Q. Okay. And are you aware that there's a
18 CWLA standard that opposes discrimination against
19 foster parents based on their religion, sexual
20 orientation or other characteristics that are
21 unrelated to the ability to care for a child?

22 A. Yes, ma'am.

23 Q. And do you -- do you generally agree
24 with that -- with that standard?

25 A. I do.

1 Q. And do you agree that that standard
2 furthers the best interests of children in foster
3 care?

4 A. Yes. Yeah.

5 Q. And in your experience in the child
6 welfare field, do you believe that allowing private
7 agencies, private CPAs, to exclude families based
8 on the agency's religious objections either to the
9 family's religion or to their sexual orientation,
10 do you believe that that has an impact on the pool
11 of families that are available for children?

12 A. I believe that there are certain
13 restrictions that would limit the number of
14 families who could go through the process to become
15 licensed and offer their home and services for
16 children in care.

17 Q. Do you think it has a detrimental
18 impact on children in foster care when CPAs can
19 exclude families based on religious objections?

20 A. I don't think that in and of itself has
21 a detrimental impact for children in care. I think
22 it does limit the number and availability that
23 could be, you know, realized for children who are
24 in need of out-of-home placement.

25 Q. Okay. If a family -- and again, I'm

1 asking in your personal capacity. If a family who
2 is interested in being a foster family goes to a
3 CPA and faces discrimination in -- in that process,
4 they're turned away, can you necessarily count on
5 them to apply to be a foster parent through a
6 different CPA?

7 MR. COLEMAN: Object to the form of the
8 question.

9 THE WITNESS: Families are aware that
10 there are a number of agencies that are available
11 that they can apply through to become licensed or
12 that they could consult with the Department of
13 Social Services.

14 BY MS. JANSON:

15 Q. Do you -- do you think families are
16 necessarily aware of the particular beliefs or
17 requirements of any given CPA?

18 A. They may not be until they've either
19 done research or talked with others. I think on
20 the surface, just with the name, they wouldn't know
21 about a specific agency.

22 MS. JANSON: Okay. I think we are -- I
23 think we are getting -- not making any promises,
24 but I think we're getting to the end, so thank you
25 very much for bearing -- bearing with me. Okay.

1 So Cris, why don't we mark Tab 16.

2 MR. RAY: That's Exhibit 20 and that
3 has been introduced.

4 (EXHIBIT 20, Office of the Governor
5 Executive Order No. 2018-12, Rogers_McMaster_000013
6 to 000015, was marked for identification.)

7 BY MS. JANSON:

8 Q. Great. Just let me know when that
9 comes up for you.

10 MR. RIDDLE: Doing it right now.

11 THE WITNESS: Okay. I have it.

12 BY MS. JANSON:

13 Q. Okay. So this is Exhibit 20 and this
14 is a Executive Order Number 2018-12 dated March
15 13th, 2018 and it's Bates numbered
16 Rogers_McMaster_000013 through 15. Have you seen
17 this document before?

18 A. Yes, I have.

19 Q. And when have you seen it?

20 A. In -- shortly thereafter it was issued
21 in 2018.

22 Q. Okay. And -- and this was -- just in
23 terms of timing, this was issued relatively shortly
24 after Governor McMaster sent his letter to DSS
25 requesting the waiver, right?

1 A. Yes, that would be correct.

2 Q. And do you see -- I'm skipping ahead to
3 the third page of the document, the first paragraph
4 that's now, therefore, and then part way through
5 that sentence it reads: I direct that DSS shall
6 not deny licensure to faith-based CPAs solely on
7 account of their religious identity or
8 sincerely-held religious beliefs.

9 Do you see that?

10 A. I do.

11 Q. And since Governor McMaster issued the
12 executive order, has DSS denied licensure to any
13 faith-based CPAs?

14 A. DSS has not.

15 Q. Has DSS denied licensure to any
16 faith-based CPA -- I'm sorry, to any CPA, not
17 faith-based?

18 A. DSS has not denied licensure to any CPA
19 that has submitted required documents for
20 licensure.

21 Q. And before this executive order was --
22 was issued, had DSS ever denied licensure to any
23 faith-based CPA that met the applicable
24 requirements?

25 A. No, there was none that fell within

1 this timeframe.

2 Q. And if you see in that same paragraph
3 right after where I stopped reading, it continues:
4 I hereby direct DSS to review and revise its
5 policies and manuals in accordance with this order
6 and ensure that DSS does not directly or indirectly
7 penalize religious activity -- identity or activity
8 in applying -- and it lists specific sections of
9 the South Carolina Code of Regulations with regard
10 to licensure for foster care.

11 Do you see that there?

12 A. I do.

13 Q. Did -- did DSS make any changes to its
14 policies or manuals in response to this executive
15 order?

16 A. We did not make any changes to policy.

17 Q. Did you make any -- were there any
18 changes made by DSS to manuals?

19 A. No, not to policies or manuals.

20 Q. Okay. And during the period of time,
21 you know, that we have been discussing, has DSS
22 made any other changes to its policies or manuals
23 even if not specifically in response to the
24 executive order?

25 A. We have not.

1 Q. And then has -- did DSS make any
2 changes to the relevant provisions of the South
3 Carolina Code of Regulations in response to
4 Governor McMaster's executive order?

5 A. Not in response to the Governor's
6 order, we have not.

7 Q. Any other -- any changes for any other
8 reasons?

9 A. Just the regulatory review period for
10 updating regulations, which was just done this last
11 past legislative session that won't go into effect
12 until the fall of 2021 and as a part of the Family
13 First Prevention Services Act, so that's the reason
14 the regulations were updated, to comply with Family
15 First.

16 Q. Okay. Are those regulations
17 specifically related to -- to foster care services
18 or no?

19 A. It is related to foster family
20 licensure and -- and we also updated our group home
21 regulations, but certainly to Foster Family to
22 comply with the Family First Prevention Services
23 Act, another federal requirement.

24 Q. Okay. All right. Do those -- do those
25 revisions have anything to do with religion,

1 religious identity or activity with respect to
2 CPAs?

3 A. No. There was no change with respect
4 to religion.

5 Q. We're going to switch to a totally
6 different topic now, which shouldn't take too long,
7 but can we --

8 MS. JANSON: Cris, can we mark Tab 33?

9 MR. RAY: That exhibit has been
10 introduced.

11 (EXHIBIT 21, Plaintiffs' First Set of
12 Requests For Production to Michael Leach, was
13 marked for identification.)

14 MS. JANSON: Great. I think this is
15 Exhibit 21, right?

16 MR. RAY: That's right.

17 BY MS. JANSON:

18 Q. All right. So let me know when you --
19 when you have that in front of you.

20 A. I will.

21 Q. Great.

22 A. Okay. I have it.

23 Q. Okay. Great. So this is -- we're
24 marking this as Exhibit 21. This is Plaintiffs'
25 First Set of Requests for Production to Michael

1 Leach that was served on June 4th, 2020.

2 Have you ever seen this document
3 before?

4 A. I don't think I've seen this one.

5 Q. Okay. So this is -- this is a series
6 of document requests that the Plaintiffs in this
7 litigation served on Director Leach.

8 Were you involved -- were you --
9 personally were you involved in any efforts by
10 Director Leach or anyone at DSS to search for,
11 collect and produce documents in response to these
12 requests?

13 A. I'm just looking at this now. Where
14 does the request appear?

15 Q. So the actual requests themselves start
16 on Page 9 of the document.

17 A. Okay. I don't think specifics. I
18 mean, we certainly provided the file document to
19 our office of general counsel, but I don't know if
20 there was specifics from this document that we were
21 asked to produce other than the paper file or for
22 their review.

23 Q. When you say the paper file, what paper
24 file?

25 A. The licensing file for Miracle Hill.

1 Q. Were there -- apart from the licensing
2 file for Miracle Hill, are you aware of other --
3 were you involved in collecting any other documents
4 that you provided to general counsel?

5 A. No.

6 Q. Are you aware at all of what -- what
7 was done by Director Leach or other members of DSS
8 staff to search for, collect and produce documents
9 in response to these requests?

10 A. I'm not.

11 Q. So you don't know what steps might have
12 been taken by Director Leach or anyone on his staff
13 to search for documents in response to these
14 requests?

15 A. I personally don't know.

16 Q. Okay. I know we just -- we just came
17 back from a break, but if we can take another short
18 break, I can look back over my notes and see -- and
19 see if I have anything else, but we're
20 definitely -- we're definitely getting toward the
21 end, so hopefully the next segment will be the last
22 that you hear from me.

23 THE WITNESS: Okay.

24 MS. JANSON: So why don't we take --
25 why don't we take 15 minutes and come back at 3:45.

1 A. No. An individual can go to any entity
2 or to DSS.

3 Q. Okay. And I think you said -- I think
4 you said -- and I touched on this a second ago. In
5 or around July of 2020, for what sounds like a
6 variety of reasons that you already touched on,
7 that SCDSS has decided to focus on what you called
8 kinship care, right?

9 A. That's correct.

10 Q. And I think you said a family can, if
11 they want, however -- let me -- I didn't ask that
12 well.

13 Even when SCDSS has focused on kinship
14 care in the past year or so, a family who wants to
15 be licensed as a foster parent, not in the kinship
16 care but as a -- more generally as a foster parent,
17 can, if they want, still work directly with SCDSS,
18 is that right?

19 A. What was that last part? It went away.

20 Q. It's still possible for a prospective
21 foster parent or couple to work directly with DSS,
22 is that right?

23 A. Yes. Yes.

24 Q. So if -- if a prospective foster parent
25 can't or doesn't want to work with a CPA, they can

1 work with DSS?

2 A. They can.

3 Q. Even today?

4 A. Even today.

5 Q. And it's still -- has been and still is
6 the policy of DSS that the decision of where a
7 child in foster care will be placed, what foster
8 parent's home that child will be placed in, that's
9 DSS's decision, not the CPA's decision, right?

10 A. That's correct.

11 Q. Okay. You might -- you probably
12 remember Exhibit 3. It was a two-page like a table
13 or a chart with a lot of amounts. It listed all I
14 think 28 CPAs and a whole bunch of different
15 amounts of funding over various periods of years.

16 Do you remember we talked about that I
17 think early on --

18 A. Yes.

19 Q. -- today? Okay. I don't -- I don't
20 mean to be tedious, but I do want to go through a
21 couple of -- I don't think it will take super long,
22 but I know we came back to that document several
23 times and it may be that my note taking got a
24 little bit disjointed. I just want to make sure
25 we -- we've covered all the bases there.

1 If you have it in front of you, that's
2 fine. I don't think you need to pull it up in
3 front of you if you don't.

4 A. I have it.

5 Q. Basically -- okay. Basically what I
6 want to do is I'm going to try to go through in
7 alphabetical order. I just want to -- just so
8 that -- so we've got a clear record and so my own
9 notes can get clearer, figure out which CPAs are
10 operating in the upstate that offer nontherapeutic,
11 perhaps along with therapeutic care, whether they
12 have an office in the upstate and approximately how
13 long they've been licensed.

14 So I think we can -- we can run through
15 these hopefully without it being too tedious, but I
16 apologize in advance if it is a little bit
17 mechanical. So I'm trying to go through them.

18 Church of God Home For Children. They
19 offer nontherapeutic care and they have an office
20 in the upstate, right?

21 A. Yes.

22 Q. And they've been licensed I think you
23 said for maybe ten years or so, is that ballpark
24 correct?

25 A. Yes.

1 Q. Okay. Connie Maxwell Children's
2 Ministries, they are also in the upstate. They
3 serve the upstate. They have an office in the
4 upstate, offer nontherapeutic foster care and
5 they've been licensed for several decades, is that
6 correct?

7 A. That is correct.

8 Q. Epworth Children's Home serve in the
9 upstate, have an office in the upstate, offer
10 nontherapeutic foster care and they've been
11 licensed for several years?

12 A. Several decades. And they also have
13 nontherapeutic and therapeutic.

14 Q. Okay. Growing Home Southeast. This is
15 over my notes are complete. I think they serve the
16 upstate. Do you know if they have an office in the
17 upstate?

18 A. They do not have an office in the
19 upstate, but they do work statewide.

20 Q. Okay. And they do both therapeutic and
21 nontherapeutic, is that right?

22 A. That's correct.

23 Q. And they've been licensed for 15 years
24 or so?

25 A. Or so, yes.

1 Q. Okay. Lutheran Services Carolinas.
2 They serve the upstate, they don't have an office
3 in the upstate, but they offer nontherapeutic and
4 therapeutic and they've been licensed for a couple
5 decades?

6 A. Correct.

7 Q. Okay.

8 A. Yes.

9 Q. Miracle Hill Ministries, which we've
10 talked about, they have an office in the upstate,
11 they do nontherapeutic foster care, they've been
12 licensed for several decades and they serve the
13 upstate?

14 A. Yes.

15 Q. New Foundations Home For Children, I
16 believe they serve the upstate, have an office in
17 the upstate, offer nontherapeutical foster care and
18 been licensed for several years, is that right?

19 A. Yes. That is correct.

20 Q. I think we're about halfway -- halfway
21 through the list. Thanks for hanging with me.

22 Nightlight Christian Adoptions serve
23 the upstate, have an office in the upstate,
24 nontherapeutic foster care, and they've been
25 licensed for several years?

1 A. They've been licensed for several years
2 as an adoption agency and only most recently added
3 foster care services to their list.

4 Q. Okay. Do you know when -- when they
5 were licensed as a CPA to be foster care?

6 A. It's probably been a couple of years,
7 not very long.

8 Q. Okay. Two to three, four years, that
9 ballpark?

10 A. That ballpark, yes.

11 Q. Okay. South Carolina MENTOR serve the
12 upstate. Do they have an office in the upstate, do
13 you know?

14 A. They do.

15 Q. Okay. They offer nontherapeutic foster
16 care, have been licensed for several decades --

17 A. Therapeutic --

18 Q. -- is that right?

19 A. Therapeutic and nontherapeutic services
20 are offered.

21 Q. Okay. South Carolina Youth Advocate or
22 SCYAP sometimes I think later referred to as, they
23 serve the upstate, they don't have an office in the
24 upstate, they do therapeutic and nontherapeutic and
25 they've been licensed for about 30 years, is that

1 right?

2 A. Yes.

3 Q. Okay. Southeastern Children's Home,
4 they serve the upstate. Do they have an office in
5 the upstate?

6 A. Southeastern, yes.

7 Q. Okay. They do nontherapeutic foster
8 care and it looks like they also have been licensed
9 for looks like about 40ish years. Does that sound
10 right?

11 A. Yes.

12 Q. Specialized Alternative For Family and
13 Youth, I think you said sometimes it's -- they go
14 by the acronym SAFY or SAFY?

15 A. SAFY.

16 Q. They serve the upstate, have an office
17 in the upstate, offer both therapeutic and
18 nontherapeutic and been licensed since the 1990s.
19 Is that all correct?

20 A. That is correct.

21 Q. Okay. Tamassee DAR School, if I'm
22 pronouncing that right, I think you said they
23 closed at some point in 2019. But prior to that,
24 and at least you said, into some part of 2019 they
25 were licensed as a CPA, is that --

1 A. That is -- that's correct.

2 Q. They do nontherapeutic foster care,
3 serve the upstate, they -- do you know if they have
4 an office in the upstate?

5 A. They did.

6 Q. Okay. The Bair Foundation has an
7 office in the upstate, serves the upstate, have
8 therapeutic and nontherapeutic foster care and
9 they've been licensed for about 20 years. Is that
10 all correct?

11 A. That's correct.

12 Q. Then -- let's see. Thornwell. Let's
13 see. Serves the upstate, office in the upstate,
14 nontherapeutic foster care and they've been
15 licensed for a number of years?

16 A. Um-hum. Yes.

17 Q. And then I think the last -- the last
18 one, this is one that I have written in, so -- from
19 your testimony -- so correct me here. I can't read
20 my own writing. Family Preservation? Is that --

21 A. Um-hum. Family Preservation Community
22 Services.

23 Q. Okay. So they serve the upstate. Do
24 they have an office in the upstate?

25 A. They serve statewide, but they do not

1 have an office in the upstate.

2 Q. Okay. They do nontherapeutic foster
3 care?

4 A. And therapeutic.

5 Q. And do you know ballpark how long
6 they've been licensed as a CPA?

7 A. It's been awhile, so certainly more
8 than ten years.

9 Q. Okay. I just wanted to -- for the ones
10 we just -- we just discussed, I think it's around
11 15 or 16 or so that at least serve the upstate,
12 some of them you said don't have an office here.
13 I'm trying to find an example.

14 Southeastern Children's Home, they
15 do --

16 A. Right.

17 Q. So let's use Southeastern as an
18 example. If -- if I wanted to be licensed as a
19 foster parent, I did a Google search for a foster
20 care agency in Greenville, South Carolina and I
21 think -- I just like the sound of that name, I
22 click on it. If I wanted to talk to and to apply
23 through that to DSS, how would I go about doing
24 that if they don't have an office?

25 A. You would -- sure. There is a main

1 contact number for each CPA and you would contact
2 either by e-mail or telephone to inquire and you
3 will be connected with someone at that agency who
4 would follow up with you. The staff travels
5 statewide even if they don't have an office
6 presence, and so there is staff that are assigned
7 and would meet with you and your family and take
8 you through the application process.

9 Q. Okay. Is that process -- would that
10 process be any less convenient to me as a
11 prospective foster parent than if I went with
12 Southeastern Children's Home that has an office
13 nearby?

14 A. I don't think it would. The staff
15 would be required to make contact with you, visit
16 with you, as would any other CPA that may have a
17 presence in the county in which you reside.

18 Q. Okay. Thanks for marching through that
19 with me. Look again at -- I think you still have
20 Exhibit 3 in front of you. You didn't yourself
21 prepare this document, did you?

22 A. I did not.

23 Q. Okay. By my count there are about 28
24 CPAs listed here. There were two or three,
25 JusticeWorks Behavioral Care and LifeShare

1 Management Group, that I think you clarified for us
2 are not, in fact, CPAs, is that right?

3 A. They're not currently licensed as CPAs.

4 Q. Do you know if they were previously
5 licensed as CPAs?

6 A. Yes, they were previously licensed and
7 closed.

8 Q. Okay. So I'm looking, for example, at
9 JusticeWorks Behavioral Care. It's listed twice.
10 From the second time it's listed there, for
11 example, there's numbers for 2017, 2018, 2019 and
12 there's nothing for the last half of 2020. Is that
13 the time when it -- when it closed and stopped
14 operating as a CPA?

15 A. No, it would have been before 2020.
16 JusticeWorks provides a different service for the
17 Department and so they no longer do -- work with
18 families under the child placing agency, but
19 there's a different contract for services.

20 Q. Okay. I see. Do you know when -- and
21 I apologize if you said this and I just wasn't
22 taking good notes.

23 Do you know when JusticeWorks
24 Behavioral Care stopped operating as a CPA?

25 A. It's been a number of years now and I

1 numbers here, whether those include other payments
2 for other contracted services that a CPA might
3 provide apart from the specific work that it does
4 in recruiting and helping foster families to get
5 licensed, is that right?

6 A. Again, I can't answer as to what was
7 included here.

8 Q. Okay. But we -- and we don't know then
9 that this -- from looking just at the face of this
10 document that this only shows money that went to
11 CPAs to reimburse them for or to compensate them
12 for any work that they did in recruiting or helping
13 foster -- prospective foster families get licensed,
14 right?

15 MR. COLEMAN: Object to the form of the
16 question.

17 THE WITNESS: Again, I have no way of
18 knowing what was included here on the surface.
19 This just shows the total amount that was paid per
20 fiscal year.

21 BY MS. HANSON:

22 Q. Okay. And then when you were -- when
23 you were speaking with Mr. Coleman, he asked you a
24 series of questions about, you know, whether
25 somebody would feel more -- possibly feel more

1 comfortable going to a CPA that shared -- shared
2 their particular faith, right, than maybe -- maybe
3 going to a different CPA, is that right?

4 A. Yes.

5 Q. And do you think that -- well, does
6 South Carolina have a CPA that focuses on
7 recruiting people from every given faith?

8 A. Not that I'm aware of. I think the
9 idea is that we recruit for families that can meet
10 the needs of children that we have in foster care,
11 and those efforts should be based on families that
12 can serve the children we have.

13 I mean, I don't know that it would be
14 much benefit to have a group of families that we
15 can't place children with. And so generally we're
16 looking for families to serve children who are for
17 our sibling groups, who are teenagers, who are
18 adolescents and are in need of temporary care.

19 Q. And assuming that there -- assuming --
20 and I understand that there isn't, but assuming
21 that there were a CPA that focused on every
22 possible faith, a Jewish CPA, a Muslim CPA, you
23 know, you name it, across the board, would that --
24 would that really -- would that be preferable or
25 would that be better than having more of an equal

1 level playing field where if I'm a prospective
2 foster parent I could feel comfortable going to any
3 of the -- any of the CPAs that -- that serve my
4 area?

5 A. I would agree with that.

6 Q. You would agree that the level playing
7 field option would be better?

8 A. I would agree that families should have
9 a choice in where they want to go to become
10 licensed where they're most comfortable with and
11 where they feel they can serve.

12 Q. And if we were talking here instead of
13 religion, if we were talking about race or
14 ethnicity and we said, well, it's fine because, you
15 know, there's an agency that -- you know, that
16 focuses on recruiting from the African American
17 community and there's an agency that focuses on
18 recruiting from the Asian American community and so
19 forth, I don't need to belabor the examples, but
20 would we -- would we -- would you generally think
21 that that would be fair?

22 A. I would not.

23 MS. JANSON: Okay. I think -- I think
24 that you've heard all you're going to hear from me.
25 Again, thank you very, very much for your time. I

1 know it's been a really long day. I don't know if
2 anyone has -- Miles has got a finger up.

3 MR. COLEMAN: Yeah. Let me ask just
4 one follow-up.

5 EXAMINATION

6 BY MR. COLEMAN:

7 Q. So Exhibit 3 that we just looked at,
8 and again, Kate just made the point and you agreed
9 that -- and you said this earlier, right, that you
10 didn't compile this data, you know, you can't speak
11 authoritatively to how it was published. Who --
12 who should we talk to to find that out, do you
13 know?

14 A. Susan Roebin --

15 Q. Okay. Do you --

16 A. -- I believe was designated.

17 MR. COLEMAN: Okay. All right. Thank
18 you.

19 THE WITNESS: You're welcome.

20 MR. RIDDLE: Nothing further from me.

21 This is Jonathan.

22 MS. JANSON: Okay. I think we're done.

23 MS. NEWMAN: Thank you, Miss Lowe.

24 VIDEO TECHNICIAN: Attorney Janson, can
25 I read my closing to take us off the record?

1 MS. JANSON: Yes, please do.

2 VIDEO TECHNICIAN: Okay. We are off
3 the record at 5:34 PM. This concludes today's
4 testimony given by Jacqueline Lowe. The total
5 number of media units was six and will be retained
6 by Veritext New York.

7 (WHEREUPON, the proceedings concluded
8 at 5:34 PM.)

9 (The witness, after having been advised
10 of her right to read and sign this transcript, does
11 not waive that right.)

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EXHIBIT 2

**Exhibit
0017**
6/3/2021
Jacueline Lowe



HENRY McMASTER
GOVERNOR

February 27, 2018

The Honorable Steven Wagner
Acting Assistant Secretary
Administration for Children and Families
U.S. Department of Health and Human Services
330 C Street, SW
Washington, D.C. 20201

Dear Acting Assistant Secretary Wagner:

South Carolina has more than 4,000 children in foster care, and we are thankful for all the wonderful Child Placing Agencies (“CPAs”) that assist in recruiting foster families to serve these children. Today I write specifically on behalf of South Carolina’s faith-based organizations that are called to serve and fill the crucial role of CPAs.

Title IV-E of the Social Security Act authorizes the Department of Health and Human Services (“Department”) to provide states with funding to assist in caring for children placed in foster family homes. In South Carolina, the Department directs these funds to our Department of Social Services (“DSS”). In turn, DSS contracts with both secular and faith-based CPAs to fulfill grant services. Our faith-based CPAs are essential as our State needs more CPAs to recruit more families. Faith-based organizations have contracted with various government entities for years to serve vulnerable populations, such as contracting with faith-based hospitals provide Medicaid and Medicare funding.

All CPAs follow the requirements of Title IV-E, which mandates that CPAs may not deny a person the right to become an adoptive or foster parent on the basis of “race, color, or national origin.” 42 U.S.C. § 671(a)(18). Effective January 11, 2017, the Department attempted to expand the law, adding two new subsections to an existing federal regulation. *See* 45 C.F.R. § 75.300(c), (d). However, Title IV-E already contains a statutory non-discrimination requirement. The Department cannot lawfully expand such statutory provisions through regulations, as a regulation must *implement* the statutory scheme, not *alter* or *amend* it.

The Honorable Steven Wagner
Page 2
February 27, 2018

Moreover, the new regulatory subsections effectively require CPAs to abandon their religious beliefs or forgo the available public licensure and funding, which violates the constitutional rights of faith-based organizations. A regulation used to limit the free exercise of faith-based providers violates the Religious Freedom Restoration Act (“RFRA”). The purpose of RFRA is to ensure that the government cannot substantially burden the free exercise of religion, such as by pressuring an entity to abandon its religious convictions in order to comply with governmental regulations.

The Supreme Court has made clear that that faith-based entities may contract with the government without having to abandon their sincerely religious beliefs. In *Trinity Lutheran Church of Columbia, Inc. v. Comer*, the Supreme Court held that the state policy of denying a “qualified religious entity a public benefit solely because of its religious character . . . goes too far” and violates the Establishment Clause. Upholding the new regulations would have the same effect, forcing a religious organization to choose between the tenets of its faith or applying for a CPA license to serve the children of South Carolina.

South Carolina needs to continue growing our CPAs, not to prevent them from serving our State’s children. In fact, one faith-based CPA, Miracle Hill, is our State’s largest provider of foster families for Level I foster children, recruiting 15% of the State’s foster families. Therefore, on behalf of South Carolina and faith-based organizations like Miracle Hill, I ask that the Department provide a deviation or waiver from its current policy to recoup grant funds from DSS if the Department determines the new regulations are violated by any DSS CPA contracts due to religiously held beliefs. Faith-based CPAs should be allowed to hold their sincerely held religious beliefs and be licensed to recruit foster parents for our foster children.

I look forward to hearing from you on this very important issue.

Yours very truly,



Henry McMaster

EXHIBIT 3

Year	New Foster Home Licenses	New Foster Home Licenses assisted by CPA
2017	803	362
2018	792	334
2019	797	337
2020	762	367
2021	672	484

2017, Total	
New Foster Home Licenses	
Count of ProviderName	
	803

2018, Total	
New Foster Home Licenses	
Count of ProviderName	
	792

2019, Total	
New Foster Home Licenses	
Count of ProviderName	
	797

2020, Total	
New Foster Home Licenses	
Count of ProviderName	
	762

2021, Total	
New Foster Home Licenses	
Count of ProviderName	
	672

New Foster Home Licenses assisted by CPA	
PrimaryProviderName	Count of ProviderName
Akton Wilkes Society	3
Carolina Therapeutic Services	2
Connie Maxwell Children's Ministries	14
Epworth Children's Home	2
Epworth Children's Home - Regular CPA	7
Family Preservation - Therapeutic CPA	2
Growing Home Southeast - Therapeutic CPA	11
John K. Crosswell Home for Children	2
Justice Works Behavioral Care	6
Lifeline Children's Services	10
Lutheran Family Services of the Carolina	2
Lutheran Services - Therapeutic CPA	18
Mandala Adoption Services	1
Miracle Hill Ministries, Inc.	97
New Foundations - Therapeutic CPA	1
Reid House Of Christian Servc	1
SC Mentor - Therapeutic CPA	47
SC YAP - Therapeutic CPA	82
Specialized Alternative Youth	10
The Bair Foundation Therapeutic CPA	37
Thorwell	7
Grand Total	362

New Foster Home Licenses assisted by CPA	
PrimaryProviderName	Count of ProviderName
Child Abuse Prevention Association	9
Church of God Home for Children-CPA	2
Connie Maxwell Children's Ministries	3
Epworth Children's Home - Regular CPA	14
Family Preservation - Therapeutic CPA	4
Growing Home Southeast - Therapeutic CPA	13
Justice Works Behavioral Care	1
Lifeline Children's Services	6
Lutheran Family Services of the Carolina	3
Lutheran Services - Therapeutic CPA	15
Miracle Hill Ministries, Inc.	68
New Foundations - Therapeutic CPA	4
SC Mentor - Therapeutic CPA	31
SC YAP - Therapeutic CPA	83
Specialized Alternative Youth	14
The Bair Foundation Therapeutic CPA	55
Thorwell	9
Grand Total	334

New Foster Home Licenses assisted by CPA	
PrimaryProviderName	Count of ProviderName
Adoption Advocacy, Inc	1
Broadstep Behavioral Health, Inc.	4
Child Abuse Prevention Association	11
Church of God Home for Children-CPA	2
Connie Maxwell Children's Ministries	9
Epworth Children's Home - Regular CPA	31
Family Preservation - Therapeutic CPA	6
Growing Home Southeast - Therapeutic CPA	13
John K. Crosswell Home for Children	3
Lifeline Children's Services	12
Lutheran Family Services of the Carolina	3
Lutheran Services - Therapeutic CPA	21
Miracle Hill Ministries, Inc.	54
New Foundations - Therapeutic CPA	4
Nightlight Christian Adoptions	2
SC Mentor - Therapeutic CPA	29
SC YAP - Therapeutic CPA	67
Specialized Alternative Youth	17
The Bair Foundation Therapeutic CPA	35
Thorwell	13
Grand Total	337

New Foster Home Licenses assisted by CPA	
PrimaryProviderName	Count of ProviderName
Adoption Advocacy, Inc	1
Child Abuse Prevention Association	10
Children Unlimited At Family Service Cen	1
Church of God Home for Children-CPA	2
Connie Maxwell Children's Ministries	15
Epworth Children's Home	4
Epworth Children's Home - Regular CPA	46
Epworth Children's Home -Therapeutic CPA	3
Family Preservation - Regular CPA	4
Family Preservation - Therapeutic CPA	7
Growing Home Southeast - Regular CPA	6
Growing Home Southeast - Therapeutic CPA	9
John K. Crosswell Home for Children	3
Lifeline Children's Services	10
Lutheran Services - Regular CPA	8
Lutheran Services - Therapeutic CPA	10
Miracle Hill Ministries, Inc.	65
National YAP - Regular CPA	2
New Foundation Children & Family Serv.	1
New Foundations - Therapeutic CPA	2
Nightlight Christian Adoptions	2
SC Mentor - Regular CPA	2
SC Mentor - Therapeutic CPA	26
SC YAP - Regular CPA	6
SC YAP - Therapeutic CPA	43
Specialized Alternative Youth	22
The Bair Foundation - Regular CPA	3
The Bair Foundation Therapeutic CPA	34
Thorwell	20
Grand Total	367

New Foster Home Licenses assisted by CPA	
PrimProviderName	Count of ProviderName
Child Abuse Prevention Association	11
Church of God Home for Children-CPA	4
Connie Maxwell Children's Ministries	18
Epworth Children's Home	4
Epworth Children's Home - Regular CPA	8
Epworth Children's Home -Therapeutic CPA	56
Family Preservation - Regular CPA	2
Family Preservation - Therapeutic CPA	5
Growing Home Southeast - Regular CPA	16
Growing Home Southeast - Therapeutic CPA	21
Hope Embraced Adoption Agency	1
John K. Crosswell Home for Children	2
LIFELINE CHILDREN'S SERVICES	6
Lutheran Services - Regular CPA	18
Lutheran Services - Therapeutic CPA	8
Miracle Hill Ministries, Inc.	54
National YAP - Regular CPA	25
National YAP - Therapeutic CPA	14
New Foundations - Regular CPA	1
New Foundations - Therapeutic CPA	3
Nightlight Christian Adoptions	9
Oasis of Hope	18
SC Mentor - Regular CPA	12
SC Mentor - Therapeutic CPA	27
SC YAP - Regular CPA	2
SC YAP - Therapeutic CPA	63
Specialized Alternative Youth	15
The Bair Foundation - Regular CPA	5
The Bair Foundation Therapeutic CPA	24
Thorwell	32
Grand Total	484

All Unduplicated Placements with a Private Provider

Primary Provider	2017	2018	2019	2020	2021
Alston Wilkes Society	21				
Broadstep Behavioral Health, Inc.			3	3	
Child Abuse Prevention Association		19	33	18	38
Church of God Home for Children-CPA		5	13	11	14
Connie Maxwell Children's Ministries	20	9	32	26	43
Epworth Children's Home - Regular CPA	12	26	57	105	88
Epworth Children's Home -Therapeutic CPA			1	10	116
Family Preservation - Regular CPA				3	4
Family Preservation - Therapeutic CPA	30	44	26	23	21
Growing Home Southeast - Regular CPA				3	38
Growing Home Southeast - Therapeutic CPA	99	111	120	81	85
John K. Crosswell Home for Children		3	8	5	9
Justice Works Behavioral Care	21	2			
Lifeline Children's Services	34	35	31	34	51
Lutheran Services - Regular CPA				5	36
Lutheran Services - Therapeutic CPA	69	95	84	52	58
Miracle Hill Ministries, Inc.	240	261	310	235	235
Miriam's Promise			2	2	2
National YAP - Regular CPA					4
National YAP - Therapeutic CPA					10
New Foundations - Regular CPA					6
New Foundations - Therapeutic CPA	1	14	12	10	28
Nightlight Christian Adoptions	1	1	1	2	57
Oasis of Hope					32
SC Mentor - Regular CPA				1	19
SC Mentor - Therapeutic CPA	211	321	260	225	211
SC YAP - Regular CPA				2	2
SC YAP - Therapeutic CPA	739	816	746	539	596
Specialized Alternative Youth	157	146	178	132	162
The Bair Foundation - Regular CPA				2	10
The Bair Foundation Therapeutic CPA	179	183	173	139	138
Thornwell	7	29	34	34	82
Total in CPAs only	1841	2120	2124	1702	2195
All Children served in FC for a CY	7926	8435	8625	7148	6582

Unduplicated Therapeutic Placements with a Private Provider

Primary Provider	2017	2018	2019	2020	2021
Alston Wilkes Society	21				
Broadstep Behavioral Health, Inc.			3	3	
Epworth Children's Home -Therapeutic CPA			1	10	116
Family Preservation - Therapeutic CPA	30	44	26	23	21
Growing Home Southeast - Therapeutic CPA	90	93	94	72	81
Justice Works Behavioral Care	21	2			
Lutheran Services - Therapeutic CPA	67	83	78	50	54
Miracle Hill Ministries, Inc.	3				
National YAP - Therapeutic CPA					10
New Foundations - Therapeutic CPA	1	13	12	10	27
SC Mentor - Regular CPA					1
SC Mentor - Therapeutic CPA	202	310	254	215	209
SC YAP - Therapeutic CPA	709	795	705	509	573
Specialized Alternative Youth	146	138	167	130	160
The Bair Foundation - Regular CPA				1	
The Bair Foundation Therapeutic CPA	165	167	152	110	123

Number of unduplicated Children & Youth Under 18 years of age Served in Foster Care in the Upstate Region of South Carolina During the Calendar Year

Please note that these numbers include any unique child or youth under 18 years of age who was served at any time during the calendar year and differs from the “snapshot” number of children being served in foster care at any one given point in time during that year.

<u>CY 2017</u>	<u>CY 2018</u>	<u>CY 2019</u>	<u>CY 2020</u>	<u>CY 2021</u>
2,835	2,932	2,997	2,350	2,215

Staff members providing support to foster families for CPAs serving the Upstate Region

CPA	2017	2018	2019	2020	2021
Adoption Advocacy	4	4	4	4	4
Church of God Home for Children	1	1	2	2	2
Connie Maxwell	2	2	2	2	2
Epworth	N/A	N/A	4	4	4
Growing Home Southeast	1	1	1	1	1
Hope Embraced	N/A	N/A	3	3	3
Lutheran Services Carolina	4	4	2	2	2
Miracle Hill Ministries	12	16	19	22	21
New Foundation Home for Children	2	2	3	3	3
Nightlight Christian Adoption	2	2	5	5	5
Oasis of Hope	N/A	N/A	N/A	N/A	3
South Carolina Mentor (Greenville)	4	4	4	3	3
South Carolina Youth Advocate Program	8	8	8	6	6
Southeastern Children's Home	N/A	N/A	N/A	N/A	N/A
Specialized Alternative for Family and Youth	10	8	8	6	5
Tamassee DAR School	0	1	N/A	N/A	N/A
The Bair Foundation (Greenville)	7	7	8	8	9
Thornwell	4	4	4	5	3

South Carolina CPAs serving the Upstate Region

	Child Placing Agency Name	Areas Served	Licensed by DSS	Therapeutic Foster Care ("TFC"), Non-TFC or Both	Ages Served
1	Church of God Home for Children	Upstate	2013	Non-TFC	Birth – 21 years of age
2	Connie Maxwell Children's Ministries	Upstate/Midlands	1980's	Non-TFC	Birth – 21 years of age
3	Epworth Children's Home	Statewide	2016	Both	Birth – 21 years of age
4	Family Preservation Community Services	Statewide	1997	Both	Birth – 21 years of age
5	Growing Home Southeast	Statewide	2004	Both	Birth – 21 years of age
6	Hope Embraced Adoption Agency	Statewide	2013	Adoption and Non-TFC	Birth – 18 years of age
7	Lifeline Children's Services	Statewide	2012	Non-TFC	Birth – 21 years of age
8	Lutheran Services Carolinas	Statewide	2000	Both	Birth – 21 years of age
9	Miracle Hill Ministries, Inc.	Upstate	1992	Non-TFC	Birth – 21 years of age
10	New Foundations Home for Children, Inc.	Upstate	2017	Both	Birth – 21 years of age
11	Nightlight Christian Adoptions	Upstate/Midlands	2019	Non-TFC	Birth – 21 years of age
12	Oasis of Hope	Upstate	2021	Non-TFC	Birth – 21 years of age

*Licensed adoption agencies fall under the category of CPAs and can assist in the licensure of foster parents when related to an adoption.

13	South Carolina Mentor	Statewide	1984	Both	Birth – 21 years of age
14	South Carolina Youth Advocate Program	Statewide	1990	Both	Birth – 21 years of age
15	Southeastern Children's Home	Upstate	1980's	Non-TFC	Birth – 21 years of age
16	Specialized Alternative for Families and Youth	Statewide	1994	Both	Birth – 21 years of age
17	Tamassee DAR School	Upstate	2017–2019 (closed in 2019)	Non-TFC	Birth – 21 years of age
18	The Bair Foundation	Statewide	2002	Both	Birth – 21 years of age
19	Thornwell	Upstate/Midlands	2016	Non-TFC	Birth – 21 years of age
20	Adoption Advocacy, Inc.	Statewide	Since before 1999	N/A Adoption Only* (has assisted in the licensure of one or more foster parents in the past 5 years)	Birth – 18 years of age
21	Adoption Options	Statewide	2002	N/A Adoption Only*	Birth – 18 years of age
22	America World Adoption – South Carolina	Statewide	2013	N/A Adoption Only*	Birth – 18 years of age
23	Applewhite Adoptions	Statewide	2014	N/A Adoption Only*	Birth – 18 years of age

*Licensed adoption agencies fall under the category of CPAs and can assist in the licensure of foster parents when related to an adoption.

24	Bethany Christian Services	Statewide	Since before 1999	N/A Adoption Only* (has one foster home for adoption purposes)	Birth – 18 years of age
25	Carolina Adoption Services	Statewide	1993	N/A Adoption Only*	Birth – 18 years of age
26	Christian Adoption Services	Statewide	2017	N/A Adoption Only* (has one foster home for adoption purposes)	Birth – 18 years of age
27	Quiver Full Adoptions, Inc.	Statewide	2017	N/A Adoption Only*	Birth – 18 years of age

*Licensed adoption agencies fall under the category of CPAs and can assist in the licensure of foster parents when related to an adoption.

EXHIBIT 4

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

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Exhibit
0015
6/3/2021
Jacueline Lowe

Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support Revision

Number:

Review Date:

Effective Date:

700. Introduction

The South Carolina Department of Social Services is committed to providing placement environments for children in foster care that promote their safety, stability, and wellbeing. The Foster Family Licensing and Support Unit within the agency is responsible for contributing to this objective through the recruitment, licensing, monitoring, and support of foster families.

This process begins with the setting of **Standards of Care** for foster family homes (see Section 720). These standards address a number of aspects regarding a child's life in care, including matters like safety requirements, discipline practices, and parenting principles.

The process continues with the comprehensive, effective, and diverse **recruitment** of foster family applicants (see Section 730: Recruitment). The agency will, from statewide to local levels, conduct strategic planning for individual and widespread recruitment of families. The goal of such activities is ultimately the formation of an effective partnership between the agency and a wide array of competent, well-supported, and diverse families who can provide care for the state's most vulnerable children

Once a family is successfully recruited, they must complete the **intake** process through initial contact with the South Carolina Foster Parent Association or Heartfelt Calling (see Section 740: Intake & Background Checks). At this phone interview, initial information is collected, referrals for training and inspections are made, and preliminary background checks are begun to confirm that applicants are suitable for further assessment. The family is then contacted by the State Initial Licensing Unit for **assessment** and, ultimately, a fair and timely determination regarding their application (see Section 741: Foster Family Initial Licensing Assessment and Section 742: Application Determination).

After a family is issued their original license, the family will be assigned a Regional Foster Family and Licensing Support Coordinator (FSC). This individual will **manage** the family's license (see Section 750 et seq.) and **support** the family (see Section 760 et seq.) on an

ongoing basis through periodic contact, administrative assistance regarding the family's license, and guidance regarding the care of the children in each family's home. The FSC shall also be responsible for assisting Foster Care and IFCCS Workers with the **placement of foster children** in DSS-managed placements (see Section 510.2) while continuing to support the families who provide such homes.

At all points in the agency's partnership with foster families, staff personnel shall treat families and children with respect and fairness. As part of this mission, staff personnel shall avoid any and all forms of **discrimination**, with consideration of a child or family's race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation only occurring when, after a thorough and individualized assessment, such consideration is the only manner of serving a child's best interests (see Section 710). In the event that a foster family disagrees with an adverse decision made by the agency regarding their application, license, or placement status, the agency shall provide **appeal procedures** that guarantee fairness and accuracy (see Section 780).

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

710. Non-Discrimination

PURPOSE STATEMENT:

The unnecessary consideration of race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation when making decisions regarding a child's placement can result in unfair outcomes for prospective families and substantial delays in permanency for foster children. The agency is committed to the exercise of nondiscriminatory practice, and shall provide equal opportunities to all families and children, without regard to their race, color, and national origin, and religion, state of residence, age, disability, political belief, sex, or sexual orientation. The following policies and procedures describe the processes through which the agency will prevent discriminatory practices and promote individualized assessments of each child and family.

POLICY:

1. No child shall be denied the opportunity to have a permanent family on the basis of race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation. Further, no individual shall be denied the opportunity to become a foster or adoptive parent on the basis of race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation. Neither of these opportunities shall be delayed on the above basis. Licensing decisions will not be made on the above basis except in rare cases in which such consideration is in the best interests of the child. If so considered, the resulting decision will be properly supported and documented. Further, the culture of a child and/or prospective adoptive family shall not be used as a proxy for race, color, or national origin in making placement decisions.
2. The agency shall diligently recruit foster and adoptive families that reflect the ethnic and racial diversity of children for whom foster and adoptive homes are needed.
3. All prospective foster parents with disabilities shall be given full and equal opportunities to become foster parents and shall be entitled to individualized treatment. If necessary

to facilitate a full and equal opportunity, foster parents with disabilities shall be entitled to auxiliary aids and services.

4. Staff will not solicit, record, or use information on potential caregiver preferences based on race, color, or national origin. Further, staff shall not require additional training or competency for transracial placements.

PROCEDURES:

1. Non-Discrimination in the Licensing Process

- a. During the intake for foster home licensing, the Intake Worker shall record the applicant's race and ethnicity on the intake form. The worker shall redact the information after creating a CAPSS record and prior to obtaining the applicants' signatures on the form.
- b. If accommodations are needed to complete the licensing application process, the Intake Worker shall notify the State Office Initial Licensing Unit at the time the intake form is submitted.
- c. The State Office Initial Licensing Unit will make a referral for a service aid/interpreter based on the particular needs of the family and as follows:
 - i. If one or both applicants speak English as a second language and requires assistance through an interpreter, one will be provided.
 - ii. If one or both applicants require services related to visual or auditory impairment, one will be provided.

In no instance can an applicant, household member, or child act as an interpreter.

- d. If an applicant or current foster family requires aids or services to fulfill the Standards of Care required of all foster homes due solely to their disability status, the Initial Licensing Unit and Regional Foster Family and Licensing Support Unit staff shall assist the family in obtaining the necessary supports.

2. Non-Discrimination in Ongoing Management & Support

- a. If, at any point during ongoing management of the family or during fair hearing proceedings, the family requires additional aids or services due solely to the family's disability status, the unit managing the family shall assist the family in obtaining the necessary supports.

3. For diligent recruitment of diverse families, see Section 730: Recruitment.

Special Considerations:

- 1. For individualized placement decisions in which consideration of race is in the child's best interests, see Section 510.2: Placement of a Child.**

- 2. Violations of Non-Discrimination Laws & Policies**
 - a. Violations of non-discrimination laws and policies by DSS staff could result in disciplinary actions.
 - b. Violations of non-discrimination laws and policies by licensed foster homes could result in the revocation or denial of a license.

DOCUMENTATION:

- Contacts with prospective or licensed families
- Accommodations provided to disabled families or household members

COLLABORATION:

- Intake Worker (SCFPA/Heartfelt Calling)
- Initial Licensing Coordinator
- Initial Licensing Supervisor
- Foster Family and Licensing Support Coordinator
- Foster Family and Licensing Support Supervisor
- Private Providers of Aids and/or Services

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violations
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act The Americans with Disabilities Act
- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability
- 42 U.S.C.A. § 12102: ADA definition of disability

- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services
- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

Revised: 06-06-2019

720. Standards of Care

PURPOSE STATEMENT:

Through setting clear, uniform, and comprehensive expectations for foster families, the agency seeks to place all children in its care in homes where they will thrive and be safe. This section describes the standards to be followed by all foster families and provides guidance for the staff in charge of monitoring whether these standards are implemented and maintained.

POLICY:

1. The following standards of care are to be maintained by all foster families:
 - a. The **child's daily routine** shall be planned to promote the development of good health habits.
 - b. Each child shall be provided with adequate **health and hygiene** aids.
 - c. **Space for each child's possessions** shall be provided.
 - d. The foster family home (defined as house, mobile home, housing unit or apartment) shall be able to **comfortably accommodate** a foster child as well as the foster family's own family, including the provision of proper **sleeping arrangements** for the foster child and foster family.
 - i. Each child in care shall be provided with his or her own bed and storage space; however, same sex siblings may be allowed to share a bed or storage.
 - ii. No child may routinely share a bed with an adult and, except for a child up to twelve months of age,, no child may share a bedroom with an adult unless SCDSS or the child placing agency staff document that extenuating circumstances exist.

- iii. Children of the opposite sex sleeping in the same bed must be limited to siblings under the age of four years.
- iv. Children of the opposite sex sleeping in the same room must be limited to children under the age of four years.
- v. Children shall sleep within calling distance of an adult member of the family, with no child sleeping in a detached building, unfinished attic or basement, stairway, hall, or room commonly used for anything other than bedroom purposes.
- vi. No biological children of the foster family shall be displaced and made to occupy sleeping quarters prohibited in (ii), (iii) and (iv) above because of a foster child being placed in the home.
- vii. The top level of bunk beds shall not be used for children under the age of six years of age.
- viii. Co-sleeping or bed-sharing, when a parent and infant share a sleeping surface (such as a bed, sofa or chair) is prohibited.
- ix. Home has adequate lighting, ventilation, and proper trash and recycling disposal, if recycling is available;
- x. Home is free from rodents and insect infestation.
- xi. Home has proper water heater temperature;
- e. If deemed appropriate by SCDSS or the child placing agency, the foster family will cooperate in assuring that foster children are able to **maintain regular contact** with their birth parents, siblings, and other significant relatives.
- f. Unless advised otherwise by SCDSS, the foster family should confirm that they, their families, and all foster children understand the **temporary nature of foster care** and should work with the agency to establish permanency for the children through reunification with the birth family, adoption, or legal guardianship.
- g. Foster parents shall follow instructions and suggestions of providers of **medical and health related services**. If receiving medication, a child's prescription shall be filled on a timely basis and medications will be administered as prescribed, and otherwise be kept secured.
- h. Foster parents shall obtain **emergency medical treatment** immediately as need arises, and shall notify SCDSS and child placing agency staff, no later than 24 hours of receiving such care.

- i. If the primary source of payment for medical care is Medicaid, foster parents must confirm that the child's card is accessible at all times.
 - ii. Foster parents shall contact SCDSS for coordination of any elective or nonemergency surgical procedures as far in advance of the procedure(s) as possible.
 - iii. Any injuries sustained by a foster child must be reported as they occur and no later than 24 hours of incident.
- i. Foster parents are responsible for notifying SCDSS and/or the child placing agency staff as soon as possible when a **critical incident** has occurred such as:
 - i. the death of any child in the home;
 - ii. an attempted suicide by the child;
 - iii. the child being caught with a weapon or illegal substance;
 - iv. the child being charged with a juvenile or adult offense;
 - v. the child being placed on homebound schooling or being suspended or expelled from school;
 - vi. the child leaving the home without permission and not returning.
- j. **Religious education** is to be in accordance with the expressed wishes (if any) of the birth parents.
- k. **School attendance** shall be in accordance with State law requirements and shall be in accordance with the ability and in the best interests of the child.
 - i. The foster parents will assure that each foster child has access to education, educational opportunities, and related services. Foster parents must emphasize the value of education and encourage and support children in their care to fully participate in educational activities.
 - ii. SCDSS will choose which school the foster child attends.
 - iii. SCDSS will not pay for costs associated with private tuition.
 - iv. Unless extenuating circumstances exist, foster parents shall not home school foster children. SCDSS must approve any such plan.
- l. All **discipline** must be reasonable in manner, moderate in degree, and responsibly related to the child's understanding and need.
 - i. Discipline should be constructive or educational in nature (e.g. withdrawal of privileges).
 - ii. Cruel, inhumane, and/or inappropriate discipline is prohibited. This would include but not necessarily be limited to the following: head shaving or any other dehumanizing or degrading act;

- prolonged/frequent deprivation of food or serving foster children meals which are not as nutritionally adequate as those served to other family members or requiring children to be isolated from other family members when eating; deprivation of mail; slapping or shaking; a pattern of threats of removal from the home as punishment; disciplining a child for a medical or psychological problem over which he/she has no control (e.g. bedwetting, stuttering, etc.).
- iii. All foster homes are subject to South Carolina laws relating to child abuse and neglect.
 - iv. The use of corporal punishment as a form of discipline (or in any other circumstance) is prohibited.
 - m. **Household chores and tasks** assigned to foster children shall be appropriate for the ability of the child, similar to responsibilities assigned to other children, and geared toward teaching personal responsibility.
 - n. Foster parents must assist older foster adolescents in their care in learning skills that are necessary for successful **independent living**.
 - o. When determining whether to allow a foster child to participate in **extracurricular, enrichment, cultural, and social activities**, foster parents shall use the **reasonable and prudent parent standard** and shall make careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child (see Section 760.3: Reasonable and Prudent Parenting for policies, procedures, and guidance related to this standard).
 - p. Infants and children shall not be left without **competent supervision**.
 - q. Foster parents, in conjunction with SCDSS, shall keep a **life book/scrapbook** of each foster child placed in their home. Children's records and reports shall be kept confidential and shall be returned to SCDSS when a foster child leaves the foster home.
 - r. **Firearms and any ammunition** must be separately stored, locked, unloaded, and inaccessible to children when:
 - i. being legally carried upon the foster parent's person;
 - ii. being used for educational, recreational, or defense of self or property purposes by the foster parent; or
 - iii. being cleaned by the foster parent.
 - s. Foster parents must be able to secure/supervise access to in-ground or above-ground **swimming pools** over which the foster family has a right

of control and shall maintain adequate supervision during periods of swimming.

i. Swimming pools, hot tubs, and spas must meet the following to ensure they are safe and hazard free (and additionally must meet all state, tribal and/or local safety requirements):

1. Swimming pools must have a barrier on all sides.
2. Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock.
3. Swimming pools must be equipped with a life saving device, such as a ring buoy.
4. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.
5. Hot tubs and spas must have safety covers that are locked when not in use.

- t. **Fire escape** plans must be developed, posted, and routine drills conducted.
- u. A plan for how the family will respond and travel in the event of a **disaster** (e.g., a hurricane evacuation) must be developed and shared with SCDSS or child placing agency.
- v. All **pets** must be kept current with rabies vaccinations and proof of such vaccination must be provided. Pets must not pose a safety concern. SCDSS or the child placing agency will determine what constitutes a safety concern.
- w. Applicants and current licensed families must make themselves **reasonably available** on an ongoing basis to SCDSS or the child placing agency for statutorily required contacts or other contacts SCDSS or the child placing agency deems necessary. SCDSS or the child placing agency has the right to make unannounced visits, and to talk to any foster child on an as-needed basis.
- x. **Board payments** shall be utilized but not limited to reimbursement for a foster child's board, school expenses, food, clothing, incidentals, minor medical needs, and other expenses.
- y. A foster home shall not provide full time care for more than **five foster children**, with the total number of children residing in the household not to exceed eight, including the foster parent's own children, children of other household members, and other children residing in the household, except when keeping a sibling group together, keeping a child in his or her home community, returning a child to a home in which he or she was previously

placed, complying with a court order, or when a court has determined that such placement is in the children's best interests.

- i. No more than two of the five foster children referenced above may be classified as therapeutic foster care placements unless one of the exceptions applies. If one of the exceptions applies, no more than three of the five foster children may be classified as therapeutic foster care placements.
 - ii. No more than two (2) infants (age birth to one year) shall be placed in the same foster home without prior approval from SCDSS or child placing agency management staff.
 - iii. No foster home shall exceed the number of children stipulated on its issued license without permission from SCDSS or child placing agency staff.
 - iv. No foster home shall accept children referred by another public or private source without obtaining the permission of SCDSS or child placing agency staff prior to the actual placement.
- z. When a home is licensed to provide care for a **pregnant youth**, a plan for medical and hospital care, as well as appropriate protection from community stresses associated with pregnancy, must be made.
- aa. A foster family is required to notify SCDSS or child placing agency staff of any **significant change** in the family/home including, but not limited to:
- i. any structural changes in the home;
 - ii. plans involving a change of residence;
 - iii. any major changes in the health of anyone living in the home; iv. change in marital status and the addition of any occupants to the home;
 - v. significant changes in finances; and/or
 - vi. criminal and/or child abuse allegation charges and/or investigations.
- bb. No unrelated **lodger or boarder** shall be allowed to move into a foster home without the agency's concurrence. Foster children may be placed or remain in a foster home where there is an unrelated lodger or boarder or roommate after necessary safety checks have been made and a written concurrence obtained from SCDSS or the child placing agency. Anyone over the age of eighteen years and living in the home must undergo a fingerprinting, SLED, Sex Offender, and CPS check. If children are already in placement, an affidavit must be submitted by the household member

confirming there is no such record. The license must be amended to a Standard with Temporary Waiver until the results of the submitted checks have been received.

cc. Applicants or current foster families must advise SCDSS or the child placing agency staff prior to opening a commercial child care service (**day care**) or other **business in the home**.

dd. Foster parents shall **transport** children in accordance with state public safety and vehicle restraint laws.

ee. Foster parents will not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and/or nonprescription drugs by consuming them in excess amounts or using them contrary to as indicated.

ff. Foster parents, household members, and their guests will not smoke in the foster family home, in any vehicle used to transport the child, or in the presence of the child in foster care.

2. Failure to comply with one or more of these standards may result in removal of a foster child or revocation of a foster family license.
3. DSS shall apply the above Standards of Care, including the requirement to exercise the reasonable and prudent parent standard, to all foster family homes (including those managed by private child placing agencies) and group homes in which children are placed. DSS shall further ensure that the exercise of this standard is required as a condition in each contract entered into between the state and any private entities that provide placement for foster children...

PROCEDURES:

1. Each applicant shall be assessed for compliance with the Standards of Care. For detailed information on each, see Section 741: Foster Family Initial Licensing Assessment.

Upon receiving a family's license, the Foster Family Licensing Support Coordinator (FSC) shall provide the family with a copy of the Standards of Care as part of the family's information and welcome packet.

COLLABORATION:

- Initial Licensing Coordinator and Supervisor
- Foster Family and Licensing Support Coordinator (FSC) and Supervisor
- Foster Care/IFCCS Worker

REFERENCES:

Legal Citations:

- 42 U.S.C.A. § 622(b)(16): disaster preparedness
- 42 U.S.C.A. § 671(a)(10): licensing standards, non-safety relative waivers, RPP requirements
- 42 U.S.C.A. § 671(a)(11): periodic review of standards and payments
- 42 U.S.C.A. § 675(10)-(11): RPP definitions
- 45 C.F.R. § 1356.21(m): periodic review of standards and payments
- S.C. Code Ann. § 63-7-20: definitions
- S.C. Code Ann. § 63-7-25: reasonable and prudent parenting
- S.C. Code Ann. § 63-7-2310: protecting & nurturing children in foster care
- S.C. Code Ann. § 63-7-2400: number of children in a foster home
- S.C. Code Reg. § 114-550: licensing regulations
- Medical Consent
 - Parents: S.C. Code Ann. § 63-5-30
 - Children: S.C. Code Ann. § 63-5-330 thru 370
 - Abortions: S.C. Code Ann. § 44-41-10 et seq.
 - Legal custody, major nonemergency: S.C. Code Ann. § 63-7-20(13)

Forms:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

730. Recruitment

PURPOSE STATEMENT:

In order for children to thrive while in foster care, families must be available to meet their specific needs. To promote the availability and diversity of foster family homes, this section lays out the policies and procedures related to the recruitment of foster families.

POLICY:

1. No individual shall be denied the opportunity to become a foster or adoptive parent on the basis of race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation. Neither of these opportunities shall be delayed on the above basis. All recruitment materials must inform potential foster or adoptive applicants that DSS is prohibited from delaying or denying such opportunities.
2. The agency shall diligently recruit foster and adoptive families that reflect the ethnic and racial diversity of children in need of foster and adoptive homes.
3. All prospective foster parents with disabilities shall be given full and equal opportunities to become foster parents and shall be entitled to individualized treatment. If necessary to facilitate a full and equal opportunity, foster parents with disabilities shall be entitled to auxiliary aids and services.
4. County Directors and Regional Foster Family and Licensing Support staff, in consultation with Regional Directors, shall develop an annual plan to increase the number of foster homes available for placement of children within each county.
5. Recruitment efforts will emphasize the need for additional homes in order to reduce the number of placement moves of foster children, preserve family relationships and connections, increase the number of siblings placed together, move children from group care into foster homes, and increase the number of homes that reflect the ethnic and racial diversity of the state's foster children.
6. The agency shall target certain recruitment efforts to provide appropriate families to those groups of children who have the least availability of foster families, such as older youth and large sibling groups.
7. The agency shall utilize statewide and local data to target specific locations, populations, and communities for effective and efficient recruitment activities.
8. The agency shall, in furtherance of the completion of its diligent recruitment plan, set annual goals for recruitment and retention of foster families. Further, the agency will develop innovative recruitment strategies and partnerships to meet these goals and shall periodically reassess the efficacy of these efforts.
9. The agency shall confirm that those families who respond to recruitment efforts receive a uniform, positive, realistic, and trauma-informed message regarding the realities of becoming a foster parent. At the same time, however, the agency will confirm that all inquiries are met with a welcoming and customer-focused approach.

PROCEDURES:

1. Needs Assessment & Development of Recruitment Plan

- a. Needs assessments are the foundation for recruitment and shall inform decisions made regarding campaigns and events. Reports are available from CAPSS using “real time” data (Online Reports) or monthly aggregate data (Batch Reports). Statistical and demographic information for individual counties is also available at the US Census Bureau website (www.census.gov). In order to determine where resources and time should be spent, recruitment efforts for each county should be based (minimally) upon the following information (note – because recruitment needs and efforts are different, each of the data points should be specified as regular or therapeutic children and homes):
 - i. number of children in foster care;
 - ii. ages of children in foster care;
 - iii. size of sibling groups in foster care; iv. ZIP Codes of children’s family homes from which they were removed;
 - v. number of licensed foster homes;
 - vi. ZIP Codes of licensed foster homes;
 - vii. number of foster children allowed by each home’s license;
 - viii. preferred ages for placement in each home;
 - ix. number of children placed in their county of case management;
 - x. placement of each child within a sibling group; and xi. foster homes without placement or with available capacity.
- b. County Directors and Regional Foster Family and Licensing Support staff shall meet (by phone or in person) annually to develop the annual local recruitment plan.
 - i. County Directors and Regional Foster Family and Licensing Support staff shall establish recruitment priorities based on the greatest need within each county, e.g. older youth needing placement or children in need of bilingual placement.
 - ii. The recruitment plan should take into consideration the availability of community resources such as volunteers, current foster parents, Foster Parent Association, venues, media, service groups, non-profit organizations, churches, schools, professional associations, etc.

2. Engaging with Community Resources

- a. The County Director or designee shall meet routinely with groups within the community to share information and make the foster care placement needs known.
- b. The County Director shall inform all local agencies and stakeholders interested in promoting the well-being of children about the need for foster parents and/or volunteers in recruiting foster parents. The information should be based on current data trends within the county.

3. Recruitment Strategies, Activities, and Events

- a. Each County Director should be aware of the needs of the foster children in his/her county. Recruitment events and planning are primarily managed by the Regional Foster Family and Licensing Support unit but in conjunction with and on the advice of the County Director. County DSS staff should be made available to volunteer at recruitment events.
- b. Recruitment initiatives must be developed with the goal of placing children in homes within their communities and neighborhoods to facilitate continuity in the children's lives as well as to promote family and sibling connections while the biological family works toward reunification with removed children (if appropriate).
- c. SCDSS regulations support diligent recruitment of potential foster parents that reflect the ethnic and racial diversity of the children within each county for whom foster homes are needed. The use of diligent recruitment does not imply that race, color, national origin, or disability can be used to deny or delay licensing or placement.
- d. Recruitment strategies used by the **county staff** should include at least the following:
 - i. acknowledging the contributions of foster families ;
 - ii. using the media toolkit and branding images supplied by SCDSS Office of Communications and Media Relations for posters, brochures, and media promotions;
 - iii. engaging local government entities to support recruitment efforts; iv. identifying and preparing SCDSS county staff to speak at community meetings on behalf of the County Director;
 - v. meeting with local religious leaders to enlist support within congregations;

- vi. communicating with foster parents regularly and developing an understanding of why some homes have fewer placements than others; and
 - vii. attending county Foster Parent Association meetings on a regular basis.
- e. Recruitment strategies used by the **Regional Foster Family and Licensing Support staff** should include at least the following:
- i. acknowledging the contributions of foster families by correspondence and through publications such as newsletters and media awareness;
 - ii. planning and attending local recruitment events;
 - iii. coordinating events with local community partners who are child/familyfocused;
 - iv. regularly speaking to service and civic organizations, school associations, church groups, etc.;
 - v. initiating recruitment strategies on a planned, ongoing basis, including booths at local fairs and festivals, signs and brochures placed in appropriate child-friendly businesses, broadcast media interviews, etc.; and
 - vi. ensuring staff representation at all county Foster Parent Association meetings within the region.
- f. Recruitment strategies used by the **DSS State Office** and management should include at least the following:
- i. initiating dialogue between the agency and child welfare partners regarding efforts to jointly recruit quality foster homes;
 - ii. holding regular meetings of stakeholders to address concerns and observations regarding foster home recruitment;
 - iii. seeking partnerships from agencies and businesses not directly involved with child welfare;
 - iv. entering into and maintaining contracts with entities to support recruitment efforts and events;
 - v. coordinating all media and public awareness campaigns;
 - vi. aligning all recruitment to the mission of the agency and ongoing compliance with federal guidelines;
 - vii. ensuring staff are trained to perform all recruitment activities; and
 - viii. providing budget oversight and financial support for recruitment activities.

- g. When foster parents are needed to assist the agency with recruitment efforts, the FSC shall discuss with the family their willingness and availability to participate in recruitment events, media promotions, and/or interviews for a variety of media sources.
 - i. Foster children shall not be identified or used in any such recruitment efforts.
 - ii. Biological and/or adopted children of a foster family will only be used in recruitment efforts with the parents' knowledge and consent.

DOCUMENTATION:

- Copy of recruitment plan
- Contacts with families, community members, and recruitment partners
- Inquiries from prospective foster families
- Referrals from Foster Parent Association and internet services

COLLABORATION:

- Regional Foster Family and Licensing Support Staff
- Regional Directors
- County Directors
- State Director and State Office Designees
- State Leadership of Non-Profit Organizations
- Community Stakeholders
- SC Foster Parent Association/local affiliates

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violations
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act The Americans with

Disabilities Act

- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability

- 42 U.S.C.A. § 12102: ADA definition of disability
- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services
- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations

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REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

Revised: 06-06-2019

740. Intake & Background Checks

PURPOSE STATEMENT:

The agency is committed to providing a thorough but efficient licensing process that promotes both the wellbeing of foster children and the retention of prospective foster families. This section lays out the policies and procedures by which the South Carolina Foster Parent Association/ Heartfelt Calling and the State Office Initial Licensing Unit begin this process with preliminary assessments and background checks.

POLICY:

1. No individual shall be denied the opportunity to become a foster or adoptive parent on the basis of race, color, national origin, religion, state of residence, age, disability,

political belief, sex, or sexual orientation. Neither of these opportunities shall be delayed on the above bases. All recruitment materials must inform potential foster or adoptive applicants that DSS is prohibited from delaying or denying such opportunities on the above bases.

2. All prospective foster parents with disabilities shall be given full and equal opportunities to become foster parents and shall be entitled to individualized treatment. If necessary to facilitate a full and equal opportunity, foster parents with disabilities shall be entitled to auxiliary aids and services.
3. Applicants may choose to be licensed for regular foster care, Level 1 therapeutic foster care, or to be approved as an adoptive resource. Regular foster home initial license assessments are completed by SCDSS Regional Initial Licensing Coordinators. If the prospective family is interested in being approved to adopt or to foster and adopt, a SCDSS Regional Adoptions Specialist will conduct the process (see Chapter 6: Adoption & Birth Parent Services). Third-party providers contracted by SCDSS shall recruit, assess, train, and manage licensed homes to provide Level 1 therapeutic foster care.
4. Dual licensing (i.e., a home is licensed by more than one agency) for the placement of children from more than one agency or the placement of adults in addition to children is dependent upon state level approval based on the circumstances.
5. Criminal history checks through fingerprinting and law enforcement records (both FBI and SLED) are required for applicants and all household members age 18 or older.
6. The Department will check SC Central Registry of Abuse and Neglect and any child abuse and neglect registry maintained by a state or tribe for information on any applicant and on any other adult living in the prospective foster family home,
7. The Department is to request a check of any other child abuse or neglect registry in a state or tribe in which any such applicant or other household adult has resided in the preceding five years.
Persons found listed on such a registry are not eligible for licensure or to share a residence with a foster child. (Inquiries by other states regarding SC Central Registry checks should be referred to the SCDSS State Office for fulfillment.)
8. SC Central Registry checks are required for non-licensed childcare providers and babysitters who provide regular and/or full-time care for foster children. Persons found listed on the Central Registry may not provide care for a foster child.
9. Each foster parent applicant and household member age 12 and older shall require a search of the National Sex Offender Registry. Inclusion on the registry of anyone in the home prohibits licensure.

10. Individuals who provide informal routine care or unlicensed child care must be screened against the National Sex Offender Registry. Child care cannot be provided by an individual listed on the registry.

PROCEDURES:

1. Families or individuals interested in fostering shall contact South Carolina Foster Parent Association/Heartfelt Calling (SCFPA/HC) in order to begin the application process.
2. The SCFPA/HC staff shall begin assessing the family during this phone call. At a minimum, the following information will be collected:
 - a. names, address, employment of applicants;
 - b. contact phone numbers of applicants;
 - c. basic demographics of applicants, to include:
 - i. age;
 - ii. gender;
 - iii. marital status; iv. birthplace;
 - v. education; and
 - vi. race (to be used only for internal recordkeeping and does not become part of the applicant's file);
 - d. social security numbers of adult applicants (necessary for fingerprinting);
 - e. names of all household members;
 - f. children living outside of the home;
 - g. age/gender of children preferred for placement;
 - h. if application is for a specific child;
 - i. pets in the home;
 - j. names and addresses of three personal references and one relative reference;
 - k. states/countries of residence during previous five years; and
 - l. criminal history checks, including all household members 18 and over.
3. The FPA/HC staff shall share the following information with the applicant:
 - a. licensing process and timeline;
 - b. intent of foster care (to temporarily protect children in a healthy and stable environment while children cannot remain safely in their family home) and adoption (to find lifelong permanency for children whose parents' rights have been terminated because of abuse and/or neglect);

- c. fingerprinting and criminal history checks for all household members age 18 and older, sex offender registry checks for all household members age 18 and older);
 - d. training requirements.
 - e. Automatic disqualifiers
4. SCFPA/HC shall schedule fingerprinting with an FBI-approved agency convenient to the applicant's address as well as a SLED check. If an applicant refuses to provide information needed to schedule fingerprinting (e.g. social security numbers), SCFPA/HC will advise the applicant of the contact information to schedule fingerprinting on his or her own. Within 24 hours of the phone call, applicants are to schedule an appointment and notify SCFPA/HC of the date and time for fingerprinting. Applicants are advised that their intake application will be held open for 24 hours. If the fingerprinting appointment is not scheduled, the intake will close and the licensing process will stop. SCFPA/HC shall arrange for rolled fingerprints to be completed for any adult in the household who may be medically unable to have digital fingerprinting done.
5. SCFPA/HC shall schedule orientation or pre-service training with the applicants at a date and time convenient for their schedule and location. Training should be scheduled to begin at least 30 days from the date of application.
6. SCFPA/HC shall mail (by postal service or electronically) the initial packet to the family for information and/or completion. The packet shall include:
 - a. letters/templates to request 3 personal references;
 - b. babysitter form;
 - c. financial information form;
 - d. DSS Form 1574: Medical Report for Prospective Foster/Adoptive Parents;
 - e. DSS Form 30202: Medical Statement for Child;
 - f. DSS Form 30102: Medical Statement for Household Members;
 - g. Fire Marshal regulations;
 - h. Preparing for your DHEC Inspection brochure; and
 - i. FPA Brochure and Welcome DVD (or video if mailed electronically).
7. SCFPA/HC shall electronically submit the application to the State Office Initial Licensing Unit for the family assessment and home study.

8. State Office Initial Licensing Unit staff shall create Provider and License records in CAPSS and shall shred the page of the application that contains the race and ethnicity of the applicants.

9. State Office Initial Licensing Unit staff shall conduct a thorough search of the SCDSS Child and Adult Protective Services System (CAPSS) and the National Sex Offender Public Website Sex Offender Registry (NSOPW) for applicants and household members age 18 and older.
 - a. If an indicated case is found in CAPSS with an applicant as a perpetrator, the application must be denied.
 - b. If the indicated case closed at least seven years prior to the application, the case is considered purged and must not be considered as a condition for licensing or denial.
 - c. If an applicant is named on the Central Registry, the application is denied. There is no time limitation for a listing on the Central Registry. Once named to this list, persons can only be removed via court ordered expunction.
 - d. The Initial Licensing staff who searches CAPSS shall indicate on the bottom of the DSS Form 3072 whether or not the applicant was found to be included on the Central Registry and shall place the form in the applicant's file.
 - e. If an applicant appears on the NSOPW, the application must be denied.
 - f. The Initial Licensing staff who searches the NSOPW will print the results pages from the website and place them in the applicant's file.
 - g. The results from CAPSS and NSOPW searches are documented in the CAPSS using the action codes Paperwork and Collateral Contact.

10. If an applicant or household member age 18 or older resided outside of South Carolina during the five years preceding the application, each state, country, or territory of residence must be contacted for a search of their Central Registry. The Adam Walsh State (and US Territories) Contacts for Child Abuse Registries is available online at http://www.cld.ca.gov/res/pdf/Revised_AW_Contact_List.pdf. When a request is made for an out of state Central Registry check, the request is documented in the CAPSS License screen using the action codes Correspondence and Collateral Contact.

11. The State Office Initial Licensing Supervisor shall receive the criminal background report from Office of Investigations and shall include the results in the application file.
 - a. If an applicant has been convicted, pled guilty, or pled nolo contendere to an offense listed in S.C. Code Ann. § 63-7-2350 the application must be denied. The

applicant will be provided an opportunity to withdraw the application before a denial letter is mailed.

- b. If criminal offenses other than those listed in S.C. Code Ann. § 63-7-2350 are listed on background checks for an applicant or household member, the Initial Foster Home Licensing Program Manager for the applicant's county of residence must be consulted and give approval to continue the application process.
 - i. The Regional Director will consider on a case-by-case basis the suitability of the home for fostering. The decision will be made based in part on these situations:
 1. the nature of the offense and what the offense suggests about whether or not the individual should be providing services/care to foster children;
 2. the length of time that has elapsed since the conviction;
 3. the individual's life experiences indicating reform or rehabilitation during the ensuing period of time; and
 4. the potential impact which the behavior that resulted in the conviction might have on the individual's fitness and ability to serve as a foster parent.
 - ii. The Initial Foster Home Licensing Program manager will provide the Initial Licensing Coordinator and Supervisor his/her decision in writing.
- c. The State Office Initial Licensing Supervisor shall document the results in the CAPSS.

DOCUMENTATION:

- Copy of initial application
- Contacts with applicants
- Results of background checks & registry searches
- Correspondence with out-of-state agencies regarding registry checks (if applicable)

COLLABORATION:

- SC Foster Parent Association/Heartfelt Calling
- Initial Licensing Coordinator/Supervisor
- Human Services Regional Director
- Office of General Counsel
- Office of Investigations
- FBI/SLED

- SCDSS Division of Human Services, Central Registry of Abuse and Neglect ☐
Fingerprinting Agency

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violation
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act The Americans with Disabilities Act
- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability
- 42 U.S.C.A. § 12102: ADA definition of disability
- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services
- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations

42 U.S.C.A. § 671(a)(20): background check requirements, databases, and registries

45 C.F.R. § 1356.30: background check requirements

S.C. Code Ann. § 63-7-2340: fingerprinting

S.C. Code Ann. § 63-7-2345: payment of FBI fingerprinting

S.C. Code Ann. § 63-7-2350: restrictions (child abuse, certain crimes)

S.C. Code Ann. § 63-7-2360: minor sex offenders in the home

S.C. Code Ann. § 63-11-70: background checks, pardons

Forms:

DSS Form 1574: Medical Report for Prospective Foster/Adoptive Parents

DSS Form 3072: Consent to Release Information

DSS Form 30102: Medical Statement for Household Members

DSS Form 30202: Medical Statement for Child

Preparing for your DHEC Inspection

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2106

Revised: 06-06-2019

741. Foster Family Initial Licensing Assessment

PURPOSE STATEMENT:

The agency is committed to providing a thorough but efficient licensing process that promotes both the wellbeing of foster children and the retention of prospective families. This section sets forth the policies and procedures governing the contacts and assessments by which Regional Initial Licensing Coordinators evaluate prospective families.

POLICY:

No individual shall be denied the opportunity to become a foster or adoptive parent on the basis of race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation. Neither of these opportunities shall be delayed on the above bases. All recruitment materials must inform potential foster or adoptive applicants that DSS is prohibited from delaying or denying such opportunities on the above bases. Further, applicants will not be required or requested to complete family assessments related to or based on the race, color, or national origin of the foster parent applicant or any potential foster children.

1. All prospective foster parents with disabilities shall be given full and equal opportunities to become foster parents and shall be entitled to individualized treatment. If necessary to facilitate a full and equal opportunity, foster parents with disabilities shall be entitled to auxiliary aids and services.
2. A decision regarding each application for a license will be made within 120 days of the date an application is signed by the applicant family. If SCDSS or the child placing agency has requested information that has not been received within 120 days, then the decision is delayed pending receipt of all information.
3. Applicants may choose to be licensed for regular foster care, therapeutic foster care, or to be approved as an adoptive resource. Regular foster home initial licensing assessments are completed by SCDSS Regional Initial Licensing Coordinators. If the prospective family is interested in being approved to adopt or to foster and adopt, a SCDSS Regional Adoptions Specialist will conduct the process (see Chapter 6: Adoption

& Birth Parent Services). Third-party providers contracted by SCDSS shall recruit, assess, train, and manage licensed homes to provide therapeutic foster care.

4. Requests accepted from non-DSS agencies should be limited to other agencies that do not have their own licensing staff. Requests from other state agencies with licensing capabilities and from licensed child placing agencies should not be accepted.
5. Each foster parent applicant and household member age 18 or older require a search of the SC Central Registry of Child Abuse and Neglect and the equivalent registry system in each state of residence for the 5 years preceding application for licensure. Persons found listed on such a registry are not eligible for licensure or to share a residence with a foster child. Inquiries by other states regarding SC Central Registry checks should be referred to the SCDSS State Office for fulfillment.
6. SC Central Registry checks are required for non-licensed childcare providers and babysitters who provide regular and/or full time care for foster children. Persons found listed on the Central Registry may not provide care for a foster child.
7. Each foster parent applicant and household member age 18 and older require a search of the National Sex Offender Registry. Inclusion on the registry of anyone in the home prohibits licensure.
8. Individuals who provide informal routine care or unlicensed child care must be screened against the National Sex Offender Registry. Care for foster children cannot be provided by an individual listed on the registry.
9. Fire and Safety, as well as Health and Sanitation, Inspections by appropriate state agencies are required to confirm that a home environment is suitable and safe for the placement of children.
10. Each foster parent applicant is required to participate in a pre-service training approved by the Department.
11. Foster families shall have a disaster preparedness plan in place as a prerequisite to initial licensure and for all renewals thereafter. Such a plan shall include the following topics:
 - a. flexible and appropriate responses to various scenarios and locations in which to seek emergency shelter;
 - b. additional considerations for medically fragile children;
 - c. plans for compliance with mandatory evacuation orders; and
 - d. identification of an approved local shelter or, if plan is to evacuate to a residence, steps for ensuring child safety and continued communication with DSS.
12. All foster family applicants shall be required to demonstrate values and standards conducive to the well-being and development of a child. These standards shall include

the use of the reasonable and prudent parent standard (see Section 760.3: Reasonable and Prudent Parenting).

13. For the Standards of Care expected of foster families, see Section 720: Standards of Care.

PROCEDURES:

1. After all background checks on applicants and household members have been received and show no history that would prevent licensing, the State Office Initial Licensing Supervisor (ILS) assigns the case to an Initial Licensing Coordinator (ILC) for processing.
2. The ILC will conduct a minimum of two in-home visits to adequately assess and interview the family. The ILC should expect to conduct additional visits and numerous phone calls with the family in order to collect the information necessary to determine the suitability and quality of the home prior to recommendation of licensure. Each contact with the family is an opportunity to observe behaviors, situations, and environments that will lend to the decision to license.
3. All contacts with the applicant family and other persons relative to the application should be documented in the CAPSS License screen using dictation action codes appropriate for the contact.
4. **The Initial Phone Call/ Contact**
 - a. The ILC shall contact the family upon assignment to schedule the first home visit, which shall occur within 10 days of the receipt of the intake form by the State Office Initial Licensing Unit.
 - i. The preferred method of contact is a telephone call. If there is no answer, a message should be left on the applicant's voice mail and an email and/or text message should be sent.
 - ii. If there is no response within 2 business days, the ILC should follow the same protocol in trying to reach the applicant.
 - iii. The ILC will staff with his or her supervisor if there is no response to any of the above contact attempts or if some or all of the means of reaching the applicant are not available.
 - iv. If, after 10 days, there has been no response, the ILC will mail a letter to the applicant stating there has been no contact and that the intake is being suspended.
 - v. Efforts to reach an applicant should be documented in the CAPSS.

- b. During the initial phone call with the applicant, the ILC shall confirm that the family received information and forms from SCFPA/Heartfelt Calling (Babysitter Form, DSS 1573, DSS 1574, DSS 30102, DSS 30202, Fire Marshal Regulations, and DHEC Inspection information).
 - i. Details of the information packet should be iterated and clarified.
 - ii. If no packet was received, the ILC shall email a packet prior to the Initial Home Visit (IHV) if there will be sufficient time for the family to review the documents. If the IHV will take place the same day of the telephone contact, the ILC will hand deliver and review the documents during the visit.
 - iii. The IHV appointment to include all household members shall be set to occur within 10 days of the receipt of the application at State Office.
 - iv. The applicant shall be made aware that a minimum of one family interview and one interview per household member age 6 and older is required during the licensing process.
 - v. The visit must be scheduled to meet the needs and availability of the family.
 - vi. If the visit cannot be accomplished within the 10-day time frame, the ILC should consult with his or her supervisor and document the reasons in CAPSS.
- c. The initial phone call serves as a preliminary assessment of the motivation and interest of the prospective foster family. It is appropriate to remind the applicant of the licensing process and what can be expected post-placement of a foster child.
- d. The name and mailing addresses of three references for the family shall be obtained during the initial phone call. References should be familiar with the family's suitability for fostering but should not be a family member of the applicants.
- e. The phone call shall be documented in the CAPSS.
- f. Requests for letters of reference shall be mailed to the individuals whose names and addresses were given by the applicant. The mailing should be documented in the CAPSS.

5. The Initial Home Visit

- a. The ILC shall perform the initial home visit, which shall include at least the following actions:

- i. explaining to the family the licensing process (including 14-hour preservice training requirement), expectations of providing foster care, and the Standards of Care found in the S.C. Code of Regulations;
- ii. assessing the family's suitability for fostering through observing (or reviewing evidence of) and making note of these positive parenting characteristics:
 - 1. ability to care about others and be responsible for them;
 - 2. ability to appropriately express affection;
 - 3. enjoyment in the parental role;
 - 4. ability to care for a child, including use of appropriate discipline, and meet that child's needs without expecting immediate appreciation and response from the child;
 - 5. a satisfactory and stable marriage or committed relationship (for applicant couples);
 - 6. maintenance of appropriate relationships with other family members and with the community;
 - 7. stability, maturity, and functioning;
 - 8. ability to be flexible in expectations and attitudes in helping meet a child's needs and in addressing a child's problems;
 - 9. ability to request and use assistance when needed to deal with problems in the family;
 - 10. ability to accept and support the child's relationship and reunification with biological family;
 - 11. ability to cooperate and appropriately work with the department and staff on behalf of the child and the child's best interest and willingness to accommodate the monthly contacts or interviews from department staff as required by statute;
 - 12. ability to accept the concepts of family preservation and reunification as the goals of most foster care placements;
 - 13. demonstration of values and standards (including reasonable and prudent parenting as defined in Section 733.2) conducive to the well-being and development of a child;
 - 14. knowledge of the needs of children;
 - 15. capability to meet the needs of foster children and provide adequate foster care services;
 - 16. capability to handle an emergency situation;

17. ability to provide all relevant and factual information to the agency in a timely manner;
 18. willingness to learn more about caring for foster children through participation in training;
 19. ability to accept moving a child into an adoptive home if appropriate; and
 20. ability to work with other professionals working with the child and the child's parents/family;
- iii. assessing the family's suitability for fostering by observing (or reviewing evidence of) and making note of these questionable or problematic traits:
1. instability with personal relationships (may be demonstrated through multiple marriages/divorces or multiple short-term partners);
 2. background on applicant's family of origin includes report of child or adult abuse/neglect, parental substance abuse, etc.;
 3. lack of involvement with the local community;
 4. evidence of possible substance abuse, including alcohol or drugs and/or history of treatment for an addictive disease;
 - a. If this is indicated, applicants may be licensed only after consultation with the appropriate therapist or physician to obtain a history of rehabilitation and to assess potential effects on the ability to care for children.
 - b. Applicants shall be required to execute the necessary releases.
 5. lack of support by any family member for the placement of a foster child;
 6. statements or other indications that the applicant is primarily seeking to meet his/her own needs rather than the foster child's (e.g., "I've always wanted a girl", "My child needs a playmate", or "Our children are grown and we're lonely");
 7. reluctance to share pertinent information;
 8. biological children from a former marriage live with ex-spouse and non-custodial parent has limited/no contact with them or provides no support for them or there is visitation between the non-custodial parent and his/her children which may present a

- problem concerning sleeping arrangements when the biological children visit overnight or for an extended period;
9. income is not sufficient enough to confirm that a board payment would not be the primary source of income or is needed for meeting routine household expenses
 10. previous or current placement of biological child(ren) in substitute care, with relative, or for adoption;
 11. residence is in a subsidized housing project which may be jeopardized by an increase in household members;
 12. family demonstrates ongoing lack of understanding about the purpose of the foster care program, developmental skills and needs of children, dynamics of child abuse and neglect, etc. (e.g., continues to express a desire to "save" the children from their parents, does not express a desire to adopt but wants to keep children only on a long-term or permanent basis);
 13. applicant or household member has a history of mental illness or other health concerns that may have an adverse impact on their ability to provide care for children;
 14. applicant or household member has been pardoned for a crime listed in S.C. Code Ann. § 63-7-2350;
 15. applicant or household member has convictions other than those listed in S.C. Code Ann. § 63-7-2350;
 16. references are all from out-of-state sources (even though the applicant has lived in South Carolina three years or more) or the references have a limited view of the applicant and family;
 17. evidence of estranged relationships with adult children or other family members;
 18. applicant uses corporal punishment to correct his or her own children and is unwilling to consider alternative forms of discipline for foster children;
- iv. securing applicant signatures on the following forms (assisting/clarifying as needed to complete):
1. Intake and Application for Services;
 2. Consent to Release Information;
 3. Babysitter Information;
 4. Family Disaster Preparedness Plan; and
 5. Family History;

- v. obtaining copies of the following documents:
 - 1. Certified Birth Certificates of all household members (original must have been issued by the state/territory/country of birth);
 - 2. Social Security cards of household members;
 - 3. marriage license of applicants (if applicable);
 - 4. Divorce Decree and Complaint for Divorce (as applicable)(if no decree or complaint is available from the state/ territory/ country issuing the divorce, a statement on letterhead from the issuing authority must be submitted with the reason for the lack of record);
 - 5. Military Discharge (if applicable);
 - 6. Driver's Licenses of all drivers in the household; and
 - 7. pet vaccination records (only required for dogs, cats, and ferrets);
- vi. reviewing the medical forms and recording dates and with whom the assessments are scheduled; tuberculosis testing is required for all adults in the household);
 - 1. All applicants must have recent (conducted within the prior 12 months) physical exams from a licensed health care professional that indicate that the applicants are capable of caring for an additional child or children.
 - 2. All household members must disclose current mental health and/or substance abuse issues.
 - 3. All household members must provide information on their physical and mental health history, including any history of drug or alcohol abuse or treatment.
 - 4. The Department may require further documentation and/or evaluation to determine the suitability of the home.
 - 5. All children who are household members must be up to date on immunizations consistent with the recommendations of the American Academy of Pediatrics (AAP), the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention (ACIP), and the American Academy of Family Physicians (AAFP), unless the immunization is contrary to the child's health as documented by a licensed health care professional.
 - 6. All household members who will be caregivers of infants must have an up-to-date pertussis (whooping cough) vaccine consistent with the recommendations of the ACIP, unless the immunization is contrary

to the individual's health as documented by a licensed health care professional.

7. All household members who will be caregivers of infants and children with special medical needs must have an up-to-date annual influenza vaccine consistent with the recommendations of the ACIP, unless the immunization is contrary to the individual's health as documented by a licensed health care professional.

- vii. reviewing the financial form, resolving any "blank" spaces or discrepancies, and calculating the totals by using the income verification documents provided by the family (if providing bank deposit statements as verification, the statement must clearly show the source/origin of deposits to be counted as income);
 - viii. noting the date of pre-service training for which the applicants are enrolled;
 - ix. beginning the Foster Parent Autobiography;
 - x. beginning the interview process with household members and children to gauge commitment and understanding of fostering;
 - xi. taking pictures of the home (inside and out) and family;
 - xii. walking through the home to assess space available for family and foster children;
 - xiii. inspecting firearm and ammunition storage; xiv. observing potential barriers to successful fire/safety or health/sanitation inspections and making recommendations to amend prior to the inspection;
 - xv. verifying when the home was built and the source of water for the home;
 - xvi. creating with or providing instructions to the family on drawing a home floor plan; and
 - xvii. setting a date for the second home visit and possible dates for fire/safety health/sanitation inspections (second home visit will be within 45 days of the first).
- b. The ILC shall document the visit details (including but not limited to who was present/interviewed, date/time of visit, as well as particular questions or concerns from the family) in the CAPSS.

6. Requests for Inspections

- a. Within 3 business days of the IHV, the ILC will request inspections.

- i. Fire and safety inspections are requested via the State Fire Marshal website, <http://scfiremarshal.llronline.com/>. To request an inspection, the ILC shall:
 1. under the heading "Programs," choose Code Enforcement or Inspection Services;
 2. from the list "Documents/Online Submissions," choose Inspection Requests;
 3. in the login box provided, type America;
 4. complete the form and submit (and note the entry is requested for initial license inspection);
 5. print copy of referral for records;
 6. confirm contact by a deputy marshal at a later date to schedule a date for the inspection;
 7. document the request date in the CAPSS.
- ii. Health and sanitation inspections are requested via email to fosterhomes@dhec.sc.gov.
 1. The Health Inspection report will include reference to the lead substance level in homes built prior to 1978 unless the applicant has specified that a child under the age of 6 will not be accepted for placement in the home.
 2. The ILC shall document the request date in the CAPSS using the dictation codes Health Inspection and Correspondence.

7. Intermediate Documentation & Review

- a. The ILC shall begin writing the Foster Family Assessment Summary and Outline (home study) as soon as possible and should not wait on all documents, references, and/or interviews to be finalized. The home study can be amended or updated as new information is learned and prior to submission to supervisor. The ILC shall document the work done in writing the home study in the CAPSS.
- b. Using the Licensing Requirement Checklist, the ILC shall review and note the receipt of collateral information, reports, or forms. The ILC shall document the date of receipt/review in the CAPSS.
- c. The ILC shall discuss the family and information gathered about the potential license as needed or requested with supervisor. The ILC shall document formal and informal conversations with supervisor in CAPSS.
- d. The ILC shall receive and review the notes from the pre-service training facilitator. The ILC shall document the date of receipt/review in CAPSS.

8. The Second Visit & Subsequent Follow-up Visits

- a. Within 45 days of the initial home visit, the ILC will conduct a second visit with the family to accomplish the following:
 - i. determining the status of the fire/safety/health/sanitation inspections, if deficiencies were found, the resolution to any deficiencies, and the dates, if any, of re-inspection;
 - ii. verifying attendance at past or upcoming pre-service training and evaluating applicants' knowledge gained from training;
 - iii. reminding about the licensing process and remaining steps toward completion;
 - iv. gathering information/documentation that has not already been submitted;
 - v. completing the Foster Parent Autobiography for each applicant and obtaining signatures;
 - vi. asking follow-up questions to fully complete the Assessment (Home) Study Outline; vii. discussing the importance of appropriate discipline for children who've been abused or neglected and have applicant's sign Discipline Agreement; viii. reviewing the Child Factors Checklist with applicants and providing information as needed prior to obtaining their input and signatures;
 - ix. verifying any plans for child care and noting the caregiver, explaining to the applicants that an unlicensed provider must be interviewed and have background checks completed;
 - x. giving information about ABC vouchers and providing information about the process to have them issued;
 - xi. explaining foster care board payments and reporting to SNAP/TANF (which may affect any current benefits received by family); xii. obtaining signatures on the request for Foster Home Licensing;
 - xiii. advising the applicants that follow-up information may be requested from family or collateral contacts before license is denied or approved;
- b. The visit details (including but not limited to who was present/interviewed, date/time of visit, as well as particular questions or concerns from family) shall be documented in the CAPSS.

9. Final Draft & Submission of Home Study

- a. Within 5 days of the final home visit, the complete and thorough home study (using the Assessment Study Outline) should be written, checked for accuracy, and prepared for submission. The ILC shall document the efforts to complete the home study in CAPSS.
 - b. The ILC shall review the packet for content and completeness using the Licensing Requirement Checklist and shall submit the packet to the ILC's supervisor for final review for licensure or denial. The ILC shall document the submission of the packet in CAPSS.
 - c. Once the licensing packet has been submitted, the supervisor shall review it for accuracy, coherence, consistency and suitability for licensing. See Section 742: Application Determination for application determination policy and procedures.
- 10.** Throughout the licensing process, the Initial Licensing Supervisor should be consulted as necessary to clarify procedures and information received.

Special Considerations:

1. For the purposes of licensing interviews and assessment, an individual who spends significant amounts of time (as defined by SCDSS or the child placing agency) in an applicant's household can be considered a household member.
2. TB tests can be contra-indicated for individuals who have had the condition in the past. In these situations, a chest x-ray may be recommended by the applicant's physician.
3. When an applicant appears in CAPSS but not as a Central Registry entry, the case must not be considered if seven or more years have elapsed between the closure of the case and the application for foster home licensing.

DOCUMENTATION:

- Contacts and attempted contacts with prospective foster family
- Detailed summaries of each visit
- Copies of requests for inspections
- Copy of completed home study
- Copies of all supporting documentation
- Work completed in writing home study
- Date of submission of home study

COLLABORATION:

- Initial Licensing Coordinator
- Initial Licensing Supervisor
- Office of General Counsel
- Office of Investigations
- FBI/SLED
- DHEC
- SCDSS Division of Human Services, Central Registry of Abuse and Neglect

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violation
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act The Americans with

Disabilities Act

- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability
- 42 U.S.C.A. § 12102: ADA definition of disability
- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services
- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations

42 U.S.C.A. § 671(a)(10): licensing standards, RPP requirements

42 U.S.C.A. § 671(a)(20): background check requirements, databases, and registries

45 C.F.R. § 1356.30: background check requirements

S.C. Code Ann. § 63-7-2340: fingerprinting

S.C. Code Ann. § 63-7-2345: payment of FBI fingerprinting

S.C. Code Ann. § 63-7-2350: restrictions (child abuse, certain crimes)

S.C. Code Ann. § 63-7-2360: minor sex offenders in the home

S.C. Code Ann. § 63-11-70: background checks; pardons
S.C. Code Reg. § 114-550: licensing regulations

Tools:

SC DSS Foster Family Assessment Summary & Outline
Licensing Requirements Checklist

Forms:

DSS Form 30246: Foster/Adoptive Family Disaster Plan

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual**CHAPTER 7, Foster Family Licensing & Support**

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

741.1 Licensure of Kinship Foster Families**PURPOSE STATEMENT:**

Placement with a child's biological family members, adoptive family members, or other kin can provide a source of stability and security during the child's time in foster care and can minimize the trauma of removal. Such placement can occur (1) prior to foster care placement through safety planning, (2) during foster care placement through licensing of such homes, or (3) as a form of discharge from foster care through adoption or guardianship. This section sets forth the policies and procedures for licensing kinship caregivers as placements during a child's stay in foster care.

POLICY:

1. When a child has been removed from his or her home and is in the care, custody, or guardianship of the agency, the agency shall first attempt to identify kin who would be appropriate for placement before seeking other foster placement alternatives.
2. When placing a foster child with kin or when DSS is contacted by a person interested in becoming a kinship caregiver for a specific foster child, it is the responsibility of the agency to inform the prospective kinship caregiver that he or she may apply to become licensed as a foster parent and may be entitled to payments and services upon licensure.
3. The agency will assist kinship caregivers with the application for license process.
4. If the prospective kinship caregiver is licensed by the agency to provide foster care services and placement is made, he or she may receive payment of the full foster care rate for the care of the child and any other benefits that might be available to foster parents, whether in money or in services
5. The agency shall give preference to the kinship caregiver over a non-related placement.
6. An expedited assessment must be completed for those situations in which the court has ordered a child into an unlicensed relative's home.

7. The agency will continue to make efforts to finalize legal permanency for children placed in kinship foster families, and will educate kinship foster families on an ongoing basis regarding the mechanisms available to finalize legal permanency.

PROCEDURES:

1. For identification and engagement of kinship caregivers, see Section 510.3: Diligent Searches, Family Engagement, & Visitation.
2. For assessment and licensure of kinship caregivers, see Section 740 et seq. Kinship caregivers shall be licensed and managed in the same manner as are other foster families, with the exception of waivers of non-safety standards on a case-by-case basis.
3. If the Family Court orders that a child is to be placed in an unlicensed relative's home:
 - a. the child's Foster Care/IFCCS Worker shall coordinate with the DSS Attorney to ensure that:
 - i. the court is aware of DSS's policy requiring foster children to be in licensed placements;
 - ii. the court order contains language giving the agency the authority to remove the child in the event that the agency finds that it is contrary to the welfare of the child to remain in the home;
 - iii. the court order reflects that the agency objected to the child being placed in an unlicensed placement.
 - b. the child's Foster Care/IFCCS Worker shall arrange for an expedited assessment to be completed.
 - c. if a kinship caregiver does not wish to become licensed, CPS Staff shall complete assessments of the home as set forth in Chapter 2: Intake & Investigation.

DOCUMENTATION:

- Contacts with kinship foster family
- Correspondence with agency staff and other professionals
- Copy of home study
- If applicable, copy of court order placing child in unlicensed home

COLLABORATION:

- Initial Licensing Coordinator & Supervisor

- Foster Family and Licensing Support Coordinator & Supervisor
- Foster Care/IFCCS Worker & Supervisor
- DSS Attorney
- Family Court

REFERENCES:

Legal Citations:

42 U.S.C.A. § 671(a)(19): relative preference

S.C. Code Ann. § 63-7-730: expedited placement of a child with a relative

S.C. Code Ann. § 63-7-2320: kinship foster care

S.C. Code Ann. § 63-7-2330: relative foster care

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

741.2 Licensure of Agency Staff

PURPOSE STATEMENT:

The agency is committed to providing agency personnel the opportunity to become foster families, but recognizes that extra precautions must be taken to avoid conflicts of interest and other ethical violations. Accordingly, this section sets forth the policies and procedures to be adhered to when licensing agency employees.

POLICY:

1. Agency employees are prohibited from engaging in activities considered to be a conflict of interest or exhibiting conduct unbecoming of a state employee by influencing or using pressure tactics during the licensure process. Regardless of whether a particular act is specifically prohibited, an employee has an obligation to avoid any act that is unethical or creates the appearance of impropriety.
2. Current or former DSS employees, including front line case workers, supervisors, program managers, administrators, and directors involved in direct services may not become a foster placement for a child who is or has been on their case load; nor may they become a foster placement for a child if they have ever had supervisory or oversight responsibility over an employee who has had a professional relationship with the child, except under such circumstances as are outlined below.
3. Current or former DSS employees in non-direct services may become a foster placement for a child with whom they have or have had a professional relationship, or whom they personally know or whom they become aware of as a result of their employment, except under such circumstances as are outlined below. Non-direct service employees who have access to information on children and families include members of the senior staff and all program managers, staff in the Division of Child Welfare Services, staff in the Division of Human Resources, and staff in the SCDSS Office of the General Counsel.

4. In rare circumstances where it has been determined that all efforts to place a child have been exhausted and it has been determined that a foster home is unlikely to be identified that is in the best interests of a child known to an employee, the employee who wants to become a foster placement for that specific child may apply for licensure as a foster parent with the approval of the State Director or their designee. An office not located in the employee's region shall handle the licensure process.
5. In the event an employee becomes licensed and is based in a county office, that county may not place a child in the employee's home. For placement purposes, "county" includes Intensive Foster Care and Clinical Services staff if managing a child with/for the county of the licensed employee.

PROCEDURES:

1. The intake and background checks for agency employees shall be conducted as set forth in Section 740.
2. The Initial Licensing Supervisor shall assign the application to regional staff who are not housed in the same county office or region as the applicant. Such staff shall not include any individuals who have a relationship with the employee, either personal or professional.
3. The Initial Licensing Supervisor shall inform the Regional and County Directors (when applicant is employed in a county) of the application and the Initial Licensing Coordinator assignment. The ILS shall notify the appropriate manager or supervisor when the applicant is employed by a State Office program area.
4. Once the application has been appropriately signed, the process shall proceed as set forth in Section 741 et seq.

DOCUMENTATION:

- Contacts with prospective foster family
- Correspondence with agency staff and other professionals
- Copy of home study and supporting documents
- If licensure is to be child-specific, determination that all efforts to place a child have been exhausted and it has been determined that a foster home is unlikely to be identified that is in the best interests of the child

COLLABORATION:

- Initial Licensing Worker & Supervisor
- Regional and/or County Director
- State Office Management
- State Director or Designee

REFERENCES:

Legal Citations:

Human Resources Policy and Procedure Manual Sections 108, 117, 402, and 408

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

742. Application Determination

PURPOSE STATEMENT:

The final determination whether to license a prospective foster family should be made impartially and consistently, with sole and thorough attention being given to the family's ability to perform the responsibilities of foster parenting. Accordingly, this section lays out the policies and procedures that shall govern this decision-making process and, if applicable, the issuance of the license.

POLICY:

1. A license shall be issued to qualifying foster family applicants within 120 days of the receipt of the intake form. If, despite all efforts by the SCDSS, the license determination has not been made, explicit documentation must be entered into the CAPSS record detailing the reasons.
2. A license will not be issued if, after notification of and assistance to resolve identified problems:
 - a. licensing requirements are not met;
 - b. standards of care are not or cannot be maintained; or
 - c. the agency determines that it would be detrimental to place children in the home.
3. No individual shall be denied the opportunity to become a foster or adoptive parent solely on the basis of race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation. Neither of these opportunities shall be delayed on the above bases.
4. All prospective foster parents with disabilities shall be given full and equal opportunities to become foster parents and shall be entitled to individualized treatment. If necessary to facilitate a full and equal opportunity, foster parents with disabilities shall be entitled to auxiliary aids and services.

PROCEDURES:

1. Determination & Approval

- a. As soon as possible after the submission of the completed home study the ILC and ILS will staff the case and discuss the recommendations of the ILC.
- b. The ILC will recommend foster parent applicants:
 - i. who meet licensing requirements;
 - ii. who are able to meet and maintain the Standards of Care (see Section 720);
 - iii. who can undertake and effectively perform the responsibilities of foster parenting; and
 - iv. who can work and advocate with the SCDSS and other agencies on behalf of foster children placed in their homes.
- c. The ILC will not recommend foster parent applicants:
 - i. who have a substantiated history of child abuse or neglect;
 - ii. who have a household member with a substantiated history of child abuse or neglect;
 - iii. who have been convicted, pled guilty, or pled nolo contendere to an offense identified in SC Code Ann. § 60-7-2350;
 - iv. who have a household member who has been convicted, pled guilty, or pled nolo contendere to an offense identified in SC Code Ann. § 60-7-2350;
 - v. who have been pardoned for a crime listed in S.C. Code Ann. § 60-7-2350 and a review of the applicant's pardoned convictions, pleas, and circumstances lead to a determination that the applicant is unfit;
 - vi. who have a household member who has been pardoned for a crime listed in S.C. Code Ann. § 60-7-2350 and a review of the individual's pardoned convictions, pleas, and circumstances lead to a determination that the individual is unfit;
 - vii. who have been convicted in the previous five years of a felony involving physical assault, battery, or a drug-related offense;
 - viii. who are listed on the National Sex Offender Public Website;
 - ix. who have a household member (including minors) who are listed on the National Sex Offender Public Website;
 - x. when fire inspection report contains deficiencies that have not been or cannot be corrected;

- xi. when the completed assessment indicates that the applicant lacks or fails to demonstrate one or more parenting characteristics;
- xii. when the medical report for an applicant or another household member does not recommend approval of the person to provide care for foster children. If the agency disagrees with a recommendation, then the agency may request a second opinion. DSS as the licensing agency has the authority to review recommendations and may disagree with conclusions regarding an ability to serve as a caretaker;
- xiii. when an applicant or household member has a criminal history that has been reviewed and the application subsequently denied by the Agency;
- xiv. when a completed assessment indicates the applicant(s) lacks or fails to maintain Standards of Care (see Section 720);
- xv. when the applicant is notified and assisted regarding identified problems, but fails to take action or meet licensing requirements.

2. .

- a. If the ILC cannot recommend the applicant to be licensed, the file and CAPSS record should contain documentation that the ILC discussed potential barriers with the family and (1) that discussion with the family resulted in a written confirmation of withdrawal or (2) if resolution was not possible and the family did not choose to voluntarily withdraw.
- b. The ILC shall explain the agency's decision to the applicant. If the application is denied, the ILC shall prepare a letter denying the application that explains the right to appeal. Before sending the letter to the family, the ILC shall forward the letter to the Office of General Counsel for review prior to the State Director or designee signing the letter. If the applicant is interested in appealing the decision, the procedures listed in Section 780 are to be followed.
- c. If a license is to be issued, the ILC shall notify the Program Coordinator of the Regional Foster Family and Licensing Support unit who will have oversight of the licensed home for initiation of visits and support (see Section 760.1 for policies and procedures related to initial and ongoing contacts).
- d. All updates and documentation shall be made in CAPSS Licensing screen, including the status date and license expiration date.

3. Withdrawal of an Application: When an applicant requests that his or her request for licensing be withdrawn, the ILC shall:

- a. confirm that the applicant was not denied the opportunity to become a foster parent on the basis of race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation;
- b. discuss the reasons for the decision with the applicant and, if appropriate, attempt to resolve any identified problems or concerns;
- c. staff the withdrawal with the ILS;
- d. within 10 days of the request by the applicant, send a letter to the applicant stating the ILC's understanding of the reason for withdrawal;
- e. document in CAPSS all activities associated with the withdrawal.

DOCUMENTATION:

- Copies of assessment documentation
- Supporting information regarding application determination

COLLABORATION:

- Initial Licensing Coordinator
- Initial Licensing Supervisor
- Regional Director

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violations
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act The Americans with Disabilities Act

- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability
- 42 U.S.C.A. § 12102: ADA definition of disability
- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services

- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations

42 U.S.C.A. § 671(a)(10): licensing standards, RPP requirements

42 U.S.C.A. § 671(a)(20): background check requirements, databases, and registries

45 C.F.R. § 1356.30: background check requirements

S.C. Code Ann. § 63-7-2340: fingerprinting

S.C. Code Ann. § 63-7-2345: payment of FBI fingerprinting

S.C. Code Ann. § 63-7-2350: restrictions (child abuse, certain crimes)

S.C. Code Ann. § 63-7-2360: minor sex offenders in the home

S.C. Code Ann. § 63-11-70: background checks, pardons

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

750. License Management

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

750.1 Out of Home Abuse and Neglect (OHAN)

PURPOSE STATEMENT:

The agency is committed to providing safe placements for children in foster care. This policy section seeks to further this goal through providing procedures for coordination between licensing, OHAN, and foster care personnel.

POLICY:

1. If, at any time during which a child is in foster care, the agency receives an allegation that a child has been subjected to abuse or neglect by or in the child's current or former foster placement, the worker shall immediately make a report to the Out of Home Abuse and Neglect (OHAN) division.
2. If, at any time during which a child is in foster care, the agency receives an allegation of sexual abuse or other criminal violation involving the child, the agency shall notify local law enforcement within 24 hours.
3. The agency shall respond to all allegations made by a child while in foster care regarding abuse and neglect that occurred prior to the child's entry to foster care through the procedures described in Chapter 2: Intake and Investigations.
4. Licensing staff shall assist OHAN staff in all investigations and shall promptly revoke the license of any home against whom an allegation of abuse or neglect is indicated.

PROCEDURES:

1. Allegations of Abuse or Neglect

- a. If, at any time during which a child is in foster care, the child or someone on the child's behalf discloses allegations of abuse or neglect occurring during a current or past placement, the Foster Family and Licensing Support Coordinator (FSC) shall immediately make a report to the OHAN division.

- b. If the report involves allegations of sexual abuse or other criminal violations involving the child, the worker shall notify, in writing, local law enforcement within 24 hours of the report.

2. OHAN Investigations

- a. The FSC assigned to the family shall participate with the investigation in the following ways:
 - i. by cooperating with OHAN and CPS in implementing a safety plan, if necessary;
 - ii. by cooperating with OHAN and CPS in the notification of the County Director, Foster Care/IFCCS Supervisor, and Foster Care/IFCCS Worker(s) for all children in the home of the allegation;
 - iii. providing OHAN any information that is needed about the foster home or family, including any previous complaints or concerns;
 - iv. allowing OHAN access to licensing files and records; and
 - v. assisting OHAN with regulatory concerns that need to be addressed.
- b. If a child must be removed from the home at any point during the OHAN investigation, the FSC will coordinate with the Foster Care/IFCCS Worker to move the child to a safe and suitable placement.

3. Follow-Up Procedures

- a. If notification is received from OHAN that the allegations have been indicated, the FSC shall initiate procedures to revoke the foster home license.
- b. If the report is not indicated, the FSC shall follow up on any regulatory concerns identified during the investigation.

DOCUMENTATION:

- All contacts with child and family
- All correspondence with agency staff
- Copy of OHAN report or CPS Intake report

COLLABORATION:

- Foster Care/IFCCS Worker
- Foster Care/IFCCS Supervisor
- County Director or IFCCS Program Director
- Regional Director

- Regional Foster Family and Licensing Support Coordinator (FSC)
- OHAN Staff

REFERENCES:

Legal Citations:

S.C. Code Ann. § 63-7-310: mandated reporters

S.C. Code Ann. § 63-7-1210 thru 1230: OHAN investigation

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

750.2 License Renewals

PURPOSE STATEMENT:

In order to monitor whether foster families are continuing to implement Standards of Care and whether such families have received adequate training, the agency shall require renewal procedures for all licensed homes on a biannual basis. This section sets forth the procedures for assessing a foster family home for renewal of their license.

POLICY:

1. Race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation shall not be considered in making a determination regarding the management of a foster family license. Further, culture may not be used as a proxy for these factors in making such a decision.
2. All activities associated with child specific recruitment, licensing, and placement for foster care must be in the best interest of the child. Routine consideration of race, color, or national origin can never be considered to be in the child's best interests.
3. All licenses issued to foster families shall be reassessed for renewal at least every two years.
4. The agency shall complete re-licensing studies of each foster home on a timely basis to assure that a foster child is not residing in an unlicensed placement and that foster care board payments are not jeopardized.
5. The re-licensing study shall not include impermissible references to race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation regarding children and/or foster parents.
6. The agency shall obtain updated background checks through fingerprinting in the following circumstances:
 - a. a household member turns 18;
 - b. a person 18 or older joins the household;
 - c. current fingerprinting records on file are older than 10 years;

- d. agency staff deem such procedures to be necessary.
- 7. Communications from or about foster families will be answered within 24 hours (or within the next business day) of receipt.
- 8. For policies and procedures related to monitoring of homes through regular visits and contacts, see Section 760.1: Home Visits & Foster Family Contacts.

PROCEDURES:

1. Over the course of the two years of licensure, the FSC shall accrue and document information related to training, household changes, moves, annual fire inspections, residents of the home, relationships with foster care workers, etc. which will be used at the review for renewal of the license.
2. Fire inspections are to be conducted annually and the dates tracked in CAPSS. At least 90 days prior to the annual inspection, a referral must be made as follows:
 - a. The FSC shall request the Fire and Safety Inspection via the State Fire Marshal website (<http://scfiremarshal.llronline.com/>).
 - i. Under the heading "Programs," the FSC shall choose Code Enforcement or Inspection Services.
 - ii. From the list "Documents/Online Submissions," the FSC shall choose Inspection Requests.
 - iii. In the login box provided, the FSC shall type America.
 - iv. The FSC shall complete the form and submit (note the entry requested for license renewal) it online.
 - v. The FSC shall print a copy of the referral and place it in the licensing file.
 - b. A deputy marshal shall contact the FSC to schedule a date for the inspection.
3. At least ninety days prior to a license expiration, the FSC will inform the foster family of the impending date. If the family voluntarily chooses to have the license expire, the FSC will determine the reason for the decision, staff the case with the FSC Supervisor, and complete the following actions, when applicable.
 - a. Families who express frustration or discontent with the Agency or who cannot cite a specific reason for their decision should be referred to the Director of Regional Foster Family and Licensing Support for an exit interview.
 - b. Parents who have not acquired sufficient training hours should be assisted in locating, registering, attending, and/or completing the required courses.
 - c. If a family has grown due to the adoption or birth of a child, they should be advised of possible waivers that may be available. If the home lacks sufficient

space to accommodate foster children, the FSC shall inquire about the need for assistance to purchase furniture that would increase the availability of space, such as bunk beds.

- d. Families who have not had any foster children in the home because of preference for pre-adoptive placements should be referred to the appropriate Regional Adoptions office.
 - e. In all instances of a license expiration with children placed in the home, the FSC shall notify the Foster Care/IFCCS Worker so that arrangements for placement can be made in advance of the expiration.
4. When the family and Agency are both in agreement that the license should be renewed, the FSC shall:
- a. review quarterly visit notes and CAPSS to determine the number of training hours each parent has toward the relicensing requirement. Parents who have not acquired sufficient training hours should be assisted in locating, registering, attending, and/or completing the required courses;
 - b. review quarterly visit notes and previous relicensing information to determine if collateral contacts with physicians, references, foster care workers, etc. should be made;
 - c. review CAPSS and the family's file to gather documentation from foster care workers, placement workers, transporters, and other DSS staff who have had contact with the family and evaluate the encounters and cooperation of foster family;
 - d. determine that the annual fire inspection has been completed or is scheduled;
 - e. schedule a home visit to take place with both foster parents at least 60 days prior to the license expiration date. During the home visit, the FSC shall discuss issues included in the Foster Family Relicensing Assessment Summary and shall take appropriate notes;
 - f. request Central Registry, SLED, and Sex Offender Registry checks within 90 days of license expiration for all household members 18 and older, as well as Sex Offender Registry checks for household members 12 and older (all checks include any foster children in the home). Household members who have turned 18 must also be scheduled for fingerprinting;
 - g. request updated medical reports for any household member who has been hospitalized during the previous licensing period or if the FSC has documented reasons for requesting a medical form, including biological children who turned

- 18 and require an adult medical form (adopted children may use medical reports obtained during the adoption proceedings);
 - h. have the foster parents sign a new Disaster Preparedness Plan (in accordance with Section 760.7) and a new Discipline Agreement; and
 - i. collect necessary documentation and notes and write a complete and thorough Foster Family Relicensing Assessment Summary.
5. The FSC shall staff the renewal packet with his or her supervisor at least 45 days before the license expiration date and obtain or amend documentation according to the resulting recommendations.
6. A license renewal must not be recommended in any of the following circumstances:
- a. a foster parent has a substantiated case of child abuse or neglect;
 - b. a foster home has a household member with a substantiated history of child abuse or neglect;
 - c. a foster parent has been convicted, pled guilty, or pled nolo contendere to an offense identified in S.C. Code Ann. § 60-7-2350;
 - d. a foster home has a household member who has been convicted, pled guilty, or pled nolo contendere to an offense identified in S.C. Code Ann. § 60-7-2350;
 - e. a foster parent has been pardoned for a crime listed in S.C. Code Ann. § 60-7-2350 and a review of the applicant's pardoned convictions, pleas, and the circumstances surrounding them determine the candidate is unfit;
 - f. a foster home has a household member pardoned for a crime listed in S.C. Code Ann. § 60-7-2350 and a review of the applicant's pardoned convictions, pleas, and the circumstances surrounding them determine the candidate is unfit;
 - g. a foster parent or household member has been convicted in the previous five years by a court of competent jurisdiction of a felony involving physical assault, battery, or a drug-related offense;
 - h. a foster parent is listed on the National Sex Offender Public Website;
 - i. a foster home has a household member (including minors) who is listed on the National Sex Offender Public Website;
 - j. when the fire inspection report contains deficiencies that have not been or cannot be corrected;
 - k. when the completed assessment indicates the applicant lacks or fails to demonstrate one or more parenting characteristics;

- l. when a medical report for a foster parent or other household member does not recommend approval of the person to provide care for foster children. If the agency disagrees with a recommendation, then the agency may request a second opinion. DSS as the licensing agency has the authority to review recommendations and may disagree with conclusions regarding an ability to serve as a caretaker;
 - m. when foster parent or household member has a criminal history that has been reviewed and the application subsequently denied by the Regional Director;
 - n. when a completed assessment indicates the foster parent lacks or fails to maintain the Standards of Care (see Section 720);
 - o. when the foster parent has been notified and assisted to resolve identified problems, but fails to take action or meet licensing requirements.
7. If the FSC cannot recommend the foster home license for renewal, the file and CAPSS record shall contain documentation that the FSC discussed potential barriers with the family and discussion with the family resulted in a written confirmation of withdrawal or if resolution was not possible and the family did not choose to voluntarily withdraw.
8. The FSC shall explain the agency's decision to the applicant. If the renewal is denied, the FSC shall prepare a letter denying the application that explains the right to appeal. Before sending the letter to the family, the FSC shall forward the letter to the Office of General Counsel for review prior to the State Director signing the letter. If the applicant is interested in appealing the decision, the procedures listed in Section 780 are to be followed.
9. The FSC shall complete DSS 1513 and confirm that all documents required by the Licensing Requirement Checklist are contained in the packet prior to sending it to State Office Licensing staff.
10. All communications with or about families, including face-to-face encounters, correspondence via mail, e-mail, telephone, or text shall be documented in the CAPSS License screen using the dictation code appropriate for the activity.

Special Considerations:

1. When a licensed foster family moves, the FSC assigned to the family shall update the assessment study or, if the move is to another county, arrange for transfer of

licensing responsibility in a timely manner. The issued license is not transferable from either the address or foster family on the license. New homes must be compliant with licensing requirements.

DOCUMENTATION:

- Contacts with foster family and child
- Supporting information regarding license determinations

COLLABORATION:

- Foster Family and Licensing Support Coordinator (FSC) & Supervisor
- Foster Care/IFCCS Worker
- State Office Licensing Staff

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violation
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act The Americans with

Disabilities Act

- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability
- 42 U.S.C.A. § 12102: ADA definition of disability
- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services
- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations

42 U.S.C.A. § 671(a)(10): licensing standards, RPP requirements

42 U.S.C.A. § 671(a)(20): background check requirements, databases, and registries

45 C.F.R. § 1356.30: background check requirements

S.C. Code Ann. § 63-7-2310: FP contact, other adult notification & contact, FP cooperation

S.C. Code Ann. § 63-7-2340: fingerprinting

S.C. Code Ann. § 63-7-2345: payment of FBI fingerprinting

S.C. Code Ann. § 63-7-2350: restrictions (child abuse, certain crimes)

S.C. Code Ann. § 63-7-2360: minor sex offenders in the home

S.C. Code Ann. § 63-7-2380: foster parent training

S.C. Code Ann. § 63-11-70: background checks; pardons

S.C. Code Reg. § 114-550: licensing regulations

Tools:

Re-Licensing Assessment Summary

Re-Licensing Assessment Guide

Forms:

DSS Form 1513: Original Licensing/Relicensing/Changes for Foster Home Licensing DSS

Form 30246: Foster/Adoptive Family Disaster Plan

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support Revision

Number16-01:

Review Date: 07-21-2016

Effective Date: 07-21-2016

750.3 License Waivers

PURPOSE STATEMENT:

In certain limited circumstances, waivers must be granted to foster families for purposes of fairness and flexibility. This section details the circumstances in which such waivers may be granted and monitored.

POLICY:

1. The race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation of the applicant and/or the child involved may not be considered in making decisions about granting or denying a waiver. Culture may not be used as a proxy for race, color, or national origin in making such decisions.
2. Federal law mandates that when foster children are in placements that do not meet the state's full licensure requirements, such as during a waiver period, federal funding is not to be used for board payments.
3. There are several circumstances for which a temporary waiver may be issued to a licensed home (in all events, a child must already be placed in the home and it must be contrary to his or her best interests to leave the home while the deficiencies are corrected):
 - a. the family moves into a new home without time to have the home inspected for fire/safety and health/sanitation requirements;
 - b. a household member reaches the age of 18 and has not yet obtained background clearance from FBI fingerprinting;
 - c. an adult has joined the household prior to the agency's receipt of background checks. No unrelated lodger or boarder shall be allowed to move into a foster home without the agency's approval. Foster children may remain in the home or be placed in the home where there is an unrelated boarder or lodger only after background checks have been returned clear. If children are already in the home, an affidavit must be submitted confirming that the person has no record;

Waivers are granted for these situations for up to ninety days and no additional children may be placed in the home during this period.

4. Waivers may also be granted in certain circumstances when the number of children exceeds five. The number of children can exceed five only if:
 - a. the department is attempting to keep siblings together;
 - b. the foster children are in the process of being adopted by the foster family; or
 - c. it has been court ordered.

The foster home must have a current Standard license at the time the waiver is being requested. No additional children may be placed until the waiver circumstance is corrected. This license can be continued until the number of children satisfies licensing requirements.

5. Foster parents have a responsibility to inform the agency of situations that can impact licensing requirements, such as moving, a family member about to turn 18 (or 12 for purposes of searching the sex offender registry), and new persons joining the household. In general, there should be few instances in which a foster family does not have time to include the agency in planning for changes.

PROCEDURES:

1. Within two days of learning of the need for a waiver due to move or background checks, the FSC shall:
 - a. visit any new residence to document ongoing compliance with sleeping arrangements;
 - b. observe any new residence to document that safety hazards are not present and confirm that appropriate inspections have been scheduled;
 - c. initiate requests for any needed background clearance checks;
 - d. inform the family that no additional children can be placed until a further licensing decision is rendered; and
 - e. inform the family that, until the situation is amended, board payments may be rescinded.
2. When there is a need for placement of one or more children into a home which will cause an excessive number of children in the home, the FSC shall, within two days of learning of the placement plan:
 - a. visit the home to confirm that sleeping arrangements are in compliance the Standards of Care (see Section 720);

- b. review the fire inspection report to determine if the additional children will be contrary to fire marshal safety recommendations. If approval is needed, FSC shall contact the State Fire Marshal the same day; and
 - c. inform the family that no other children will be placed while the temporary waiver is in effect.
3. The FSC shall staff the case with his or her supervisor and recommend approval or denial of the waiver.
4. If a waiver is granted, the FSC shall include specific language that reflects the expiration date and the reason for the temporary waiver.
5. The FSC shall document all contacts and staffing in CAPSS dictation.
6. The FSC shall notify placement staff of the waiver so the family will not be contacted for further placement while the waiver is in effect.
7. The FSC shall notify the Foster Care/IFCCS Worker(s) of all children in the home as soon as a waiver is requested and throughout the waiver process.

Special Considerations:

1. Foster Families Who Refuse to Share Information or Cooperate

- a. The Foster Family and Licensing Support Coordinator (FSC) shall document that he or she has evaluated any foster home situation in which the family either chooses not to share information about changes, and/or has a pattern of unplanned moves. If a pattern or uncooperative attitude by the family is detected, the FSC shall staff the issue of continuance of the license with his or her supervisor.

DOCUMENTATION:

- All contacts with the child and family
- Correspondence with agency staff
- Copies of background checks and/or inspections
- Results of staffing(s)

COLLABORATION:

- Foster Family and Licensing Support Coordinator (FSC)
- Foster Family and Licensing Support Supervisor
- Foster Care/IFCCS Worker
- Fire Marshall
- SLED/FBI

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violations
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act The Americans with

Disabilities Act

- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability
- 42 U.S.C.A. § 12102: ADA definition of disability
- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services
- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations

42 U.S.C.A. § 671(a)(10): licensing standards, RPP requirements

42 U.S.C.A. § 671(a)(20): background check requirements, databases, and registries

45 C.F.R. § 1356.30: background check requirements

S.C. Code Ann. § 63-7-2310: FP contact, other adult notification & contact, FP cooperation

S.C. Code Ann. § 63-7-2340: fingerprinting

S.C. Code Ann. § 63-7-2345: payment of FBI fingerprinting

S.C. Code Ann. § 63-7-2350: restrictions (child abuse, certain crimes)

S.C. Code Ann. § 63-7-2360: minor sex offenders in the home

S.C. Code Ann. § 63-7-2380: foster parent training

S.C. Code Ann. § 63-11-70: background checks; pardons

S.C. Code Reg. § 114-550: licensing regulations

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

750.4 License Amendments

PURPOSE STATEMENT:

As the life circumstances of foster families change, it is important that their licensing information remains up-to-date. This section sets forth the procedures to be followed when a license must be amended.

POLICY:

1. The race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation of the applicant and/or the child involved may not be considered in making decisions about managing a family's license. Culture may not be used as a proxy for race, color, or national origin in making such decisions.

PROCEDURES:

1. The Regional Foster Family and Licensing Support Coordinator (FSC) shall initiate a request for an amended license when changes occur within a foster home, including the following:
 - a. marriage, separation or divorce of the foster parents;
 - b. death of a foster parent;
 - c. the number of children for which the home is licensed changes;
 - d. the age range of children placed in the home changes;
 - e. the gender(s) of children for which the home is licensed changes;
 - f. a change of address for the foster family;
 - g. the foster family requests that the home be closed; or
 - h. The family's license is revoked.

2. The FSC shall complete Sections A and C on DSS Form 1513, indicating the necessary changes.
3. The FSC shall attach other documentation, as appropriate, including:
 - a. a narrative statement summarizing the change(s) and an indication of the reason(s) why the license should be amended;
 - b. if the family has moved to a new residence within the county, a written description of the new location and a copy of fire report of the new address with no deficiencies listed or the inclusion of the follow-up inspection report verifying the deficiencies have been corrected;
 - c. a copy of a health report of the new address or documentation that an inspection has been requested or a written description of the new location and a copy of the health report of the new address with no deficiencies listed or the inclusion of the follow-up inspection report verifying deficiencies have been corrected;
 - d. if the family has moved out of the region, a statement that the family wishes to remain licensed and documentation that actions to share appropriate information and transfer licensing responsibility to another region or state has been initiated in a timely manner;
 - e. if the license is being revoked or the home closed, a written explanation of the action and documentation to support the decision and to verify required procedures have been followed; and/or
 - f. the current license if available or a written explanation of why the license is not included.
4. The FSC shall confirm that the issuance date for the amended license is the effective date of the change and that the expiration date continues to be two years from the issuance date of the original/renewal license, not two years from the issuance date of the amended license (i.e. the expiration date does not change).
5. The FSC shall submit materials to the Foster Family and Licensing Support Supervisor (FSS) for review and follow the issuance procedures set forth in Section 742: Application Determination.
6. The FSC shall immediately notify the Foster Care/IFCCS Workers of each child in the home of any changes of address or other major changes which would impact the children in care or necessitate their removal.

DOCUMENTATION:

- Contacts with the foster family
- Amended DSS Form 1513
- Correspondence with agency staff

COLLABORATION:

- Regional Foster Family and Licensing Support Coordinator (FSC)
- Regional Foster Family and Licensing Support Supervisor (FSS)
- Foster Care/IFCCS Worker
- Fire Marshall
- DHEC

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violation
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act The Americans with

Disabilities Act

- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability
- 42 U.S.C.A. § 12102: ADA definition of disability
- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services
- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations

42 U.S.C.A. § 671(a)(10): licensing standards, RPP requirements

S.C. Code Reg. § 114-550: licensing regulations

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Human Services Policy and Procedure Manual

Review Date: 07-21-2016

Effective Date: 07-21-2016

750.5 Reopening Closed Licenses

PURPOSE STATEMENT:

Under certain circumstances, foster homes may be closed for a temporary period but may later request to be reopened. In order to promote efficiency in the licensing process, this section describes the procedures to be followed when reopening such a home.

POLICY:

1. The race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation of the applicant and/or the child involved may not be considered in making decisions about managing a foster home license. Culture may not be used as a proxy for race, color, or national origin in making such decisions.
2. Foster homes closed at the request of the family for reasons other than indicated abuse or neglect or violations of department policy may be reopened for placement through the reinstatement of the previous license after review and determination by State Office Foster Home Licensing staff.

PROCEDURES:

1. Former foster parents may request that their home be re-licensed by contacting the intake line, by telephone inquiry to DSS State Office, or via email or the internet.
2. Once the request has been made, the Initial Licensing Supervisor or designee will determine through CAPSS the length of time the home has been closed.

- a. If the home has been closed less than two years, the request for re-opening will be forwarded to the Foster Family and Licensing Support Coordinator (FSC) or Supervisor (FSS) for the region in which the family resides. The FFALS staff will follow through with license renewal as set forth in Section 750.2.
- b. If the home has been closed for more than two years, the Initial Licensing Supervisor will assign the home to an Initial Licensing Coordinator who will oversee the licensing process as if it were a new license and according to Sections 740 et seq.

DOCUMENTATION:

- Contacts with the family
- Correspondence with agency staff
- Copies of licensure documents

COLLABORATION:

- Initial Licensing Coordinator
- Initial Licensing Supervisor
- Foster Family and Licensing Support Coordinator (FSC)
- Foster Family and Licensing Support Supervisor (FSS)

REFERENCES:

Legal Citations:

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

Human Services Policy and Procedure Manual

Review Date: 07-21-2016

Effective Date: 07-21-2016

South Carolina Department of Social Services

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

PURPOSE STATEMENT:

To promote coordination with private licensing agencies and to allow for flexibility according to foster family needs, the agency will consider transfer of a license to a private agency. This section describes the procedures to be followed when processing a transfer request.

POLICY:

1. The race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation of the applicant and/or the child involved may not be considered in making decisions about managing a foster home license. Culture may not be used as a proxy for race, color, or national origin in making such decisions.
2. Foster families who desire to have their home and license managed by a private Child Placing Agency (CPA) may request transfer of their license to another agency.

PROCEDURES:

1. Upon notification by a foster family that they request to have their home managed and supported by a private child placing agency the Regional Foster Family and Licensing Support Coordinator (FSC) assigned to the family shall:
 - a. determine and document in CAPSS dictation the reason that the family requested the change;
 - b. provide the foster parent with their licensing materials and other information in the licensing file except for criminal history record checks received from SLED or via FBI fingerprint review;
 - c. provide the foster parents with a statement of the dates and types of criminal record checks.

2. Once the Child Placing Agency (CPA) has submitted a request to include the family among their licensed homes, the DSS record shall be closed and reopened under the license of the child placing agency.

DOCUMENTATION:

- Contacts with the family
- Copy of materials sent to the foster parents
- Reason for the transfer request

COLLABORATION:

- Regional Foster Family and Licensing Support Coordinator (FSC)
- Child Placing Agency (CPA)

REFERENCES:

Legal Citations:

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

Human Services Policy and Procedure Manual

Review Date: 07-21-2016

Effective Date: 07-21-2016

760. Family Support

REVISION COMMENTS:

South Carolina Department of Social Services

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

760.1 Home Visits & Foster Family Contacts

PURPOSE STATEMENT:

Foster families are important partners in the agency's mission to provide for the safety and wellbeing for all children in its care. Accordingly, the agency is committed to supporting and monitoring foster families through regular contacts and assessments. This section sets forth the policies and procedures to be followed by licensing staff when making home visits and other contacts with foster families.

POLICY:

1. Race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation shall not be considered in making a determination regarding the management of a foster family license. Further, culture may not be used as a proxy for these factors in making such decisions.
2. Foster Family and Licensing Support staff shall make face-to-face contact with all foster families monthly for the first three months the home is licensed, and at least quarterly thereafter, to support the family and confirm ongoing compliance with standards of care.
3. The agency will recognize foster families as partners in the care of children who are separated from their own families because of abuse or neglect.
4. Foster families are required to exercise the reasonable and prudent parent standard when making decisions about foster child activities in order to facilitate age- and developmentally-appropriate opportunities for growth and development.

5. All licensing personnel are mandated reporters of suspected child abuse and neglect. Immediately upon receiving an allegation of abuse or neglect, agency staff shall make a report by telephone or in-person contact to the OHAN unit. Staff shall cooperate with the OHAN unit and shall take appropriate action based on the information obtained during the OHAN process (see Section 750.1 for further policies and procedures).
6. Communications from or about foster families will be answered within 24 hours (or within the next business day) of receipt.

PROCEDURES:

1. Initial Visits After Licensure

- a. The State Office Initial Licensing Unit shall notify the Regional Program Coordinator for Foster Family and Licensing Support (FFALS) on the date each new license is approved for the region. The Program Coordinator (or Supervisor) will assign the family to a Family Support Coordinator (FSC) who serves the county in which the home is located.
- b. Within two business days of the license approval, the Initial Licensing Coordinator and the FSC shall make a joint visit to the home for introductions and presentation of the license to the family. It is preferred, but not required, that all family and household members be present for this meeting. The FSC shall provide the family with a “welcome packet” of information which will include, at a minimum:
 - i. the Standards of Care for fostering in South Carolina (see Section 720);
 - ii. the Foster Parent Bill of Rights;
 - iii. information and contacts for services provided by the SCDSS such as SC Voucher Program for Child Care, SNAP, and FI; iv. a map of South Carolina’s Health Service Regions with contacts’ phone numbers;
 - v. contact phone numbers and email addresses of the region’s county DSS offices to include the County Director, Program Coordinators for Economic Services and Human Services, and supervisors responsible for foster care;
 - vi. contact phone numbers and email addresses of the Regional FFALS unit;
 - vii. information about the SC Foster Parent Association;
 - viii. information about quarterly visits and what the family can expect during them;
 - ix. information about training opportunities;
 - x. registration information for Shared Parenting training occurring within the first 3 months of the licensure (the parents will be expected to attend);

- xi. information and phone numbers about community resources such as WIC, BabyNet, Medicaid, Law Enforcement, Libraries, Mental Health offices, etc.; and
 - xii. court actions and definitions that occur during the life of a foster care case.
- c. The initial visit with the family shall be used as an opportunity to answer questions and to establish a trusting relationship with the foster family. Each encounter a foster family has with the agency is to be met with a customer friendly and helpful attitude.
- d. The FSC shall make two subsequent monthly home visits to continue to support any questions or concerns the foster family has regarding upcoming, past, or present placements of children in the home. The FSC shall identify training resources that will address deficiencies of knowledge or to enhance current skills, with the goal of enabling the family to offer excellent care to foster children.
- e. The family shall be reminded at all visits of the need to immediately notify the FSC of any changes to the home or its residents, including, but not limited to:
 - i. significant changes in family income;
 - ii. plans to open a home-based business (including day care);
 - iii. any structural changes for their home; iv. plans for changes of residence;
 - v. a change in marital status; and
 - vi. the addition of any resident in the home.

If any changes have been made since the license was issued, the FSC shall take appropriate action (note that foster children may be removed from a licensed home while it pends reassessment due to changes).

- i. In all circumstances of significant change, the Foster Care/IFCCS Worker for a child placed in the home must be notified so a decision can be made whether or not to allow the child(ren) to remain in the home as new assessments are conducted.
- ii. If a family moves to a different home, the license is not transferrable. Both fire/safety and health/sanitation inspections must be requested, conducted, and passed.
- iii. If there are structural changes to a licensed home, both fire/safety and health/sanitation inspections must be requested, conducted, and passed.

- iv. If a person over the age of 18 moves into the home, background checks must be obtained in accordance with Section 740.
 - v. If the foster parents separate or divorce, the impact on the home and financial supports shall be reviewed. If the separation or divorce is the result of spousal abuse, additional information such as police reports will be required.
 - vi. If the family opens a home-based business, its nature and impact on the home's physical environment and residents must be evaluated. If the business is a day care, the SCDSS Division of Early Care and Education shall be notified.
- f. The third monthly home visit shall include a discussion of Shared Parenting and the expectations of the agency for foster families to participate in both the training and the practice. If one or both parents have not scheduled to attend the training, they should be advised to complete it prior to the first quarterly visit. The FSC shall provide a schedule of upcoming training dates, if needed.
- g. All communications with or about families, including face-to-face encounters, correspondence via mail, e-mail, telephone, or text shall be documented in the CAPSS License screen using the dictation code appropriate for the activity.

2. Initial Contacts After Placement or Removal

- a. Within 48 hours (or two business days) of a child's placement in a home, the family's FSC shall make contact to confirm that the child's transition into the home is smooth. If the family requires services or assistance to maintain new (or any) placements, the FSC shall consult with his or her Supervisor and any designated foster care staff to determine specific availability and appropriateness of referrals. Services to preserve placement may include, but shall not be limited to:
- i. day care or afterschool care;
 - ii. counseling (for the child and/or the foster family);
 - iii. respite care; iv. accelerated board rate;
 - v. a behavior modification/interventionist;
 - vi. Independent Living Program services (see Section 530);
 - vii. homemaker services; and/or
 - viii. foster family peer support.

- b. The post-placement contact should be used to determine that the foster parent has all information needed (or available) about the newly-placed child. This includes (at a minimum) the following:
 - i. the name and contact information of the child's Foster Care/IFCCS Worker and his or her supervisor;
 - ii. the child's Medical and Education Passport (the foster parent should be instructed on its use if not already familiar);
 - iii. a Family Team Meeting and/or Child Conference date/time (if the child has recently been brought into care);
 - iv. the child's Medicaid number/card and birth certificate (if available);
 - v. all doctor and dentist appointments (with transportation to and from established);
 - vi. any special dietary/religious/medical needs of the child;
 - vii. information necessary to exercise the reasonable and prudent parent standard for determining age- and developmentally-appropriate activities for the child;
 - viii. upcoming court dates;
 - ix. the child's Guardian *ad Litem's* name and contact information;
 - x. an understanding of the child's permanency plan; and
 - xi. information necessary for enrollment in child care and/or for child care vouchers.
- c. Within five business days of a child's removal from a home, the family's FSC shall make contact to assess the family for grief or loss symptoms, determine the need for services, and evaluate the family's readiness for a new placement.
- d. All communications with or about families, including face-to-face encounters, correspondence via mail, e-mail, telephone, or text shall be documented in the CAPSS License screen using the dictation code appropriate for the activity.

3. Ongoing Quarterly Visits

- a. During the sixth month following license issuance, the FSC shall make the first of ongoing quarterly visits to the foster home. The visits are intended to confirm compliance with foster home Standards of Care as well as to determine the safety and wellbeing of children placed in the home. Both foster parents, if applicable, are required to be present for these visits. The results of observations and interviews while at the home shall be captured on DSS Form 30244: Quarterly Home Visit Guide, as follows.

- i. Current Placements: The FSC shall discuss and make note of any questions or concerns related to current foster children in the home. He or she shall review the items for which information should have already been provided (see above). If the parent is lacking one or more of the items, the Foster Care/IFCCS Worker shall be contacted.
- ii. Current Household Composition: The FSC shall determine if there have been changes to the residents of the household (not to include foster children). If a child of the home has turned 18 or anyone over the age of 18 has joined the household, background checks must be completed in accordance with Section 740.
- iii. Safety Issues: The FSC shall complete the form as required, through observation when applicable, and shall interview with foster parents and children otherwise.
- iv. Foster Family Functioning/Interaction with Agency/Biological Family: The FSC shall discuss and notate any changes to the health or livelihood of any resident of the home. The foster parents' relationship with the foster care workers should be discussed and any concerns noted. The foster parents' understanding of and participation in reasonable and prudent parenting and Shared Parenting should be given in detail, including activities in which the foster and biological families have participated since the last quarterly visit. Section II, item 6 should specifically include activities in which the child has participated to confirm that the family is applying the principles of reasonable and prudent parenting (see Section 760.3 for guidance regarding this standard).
- v. Training: The FSC shall verify the completion of training hours. Copies of training certificates shall be obtained during the quarterly visit. If the foster parent has concerns about the quality or availability of training, the FSC will make note and discuss the issue with the FSC's Supervisor.
- vi. Placement Preferences: The FSC shall determine if there is additional training or information that could be provided to the foster parents that would encourage the acceptance of children whose behaviors or situations are outside of their original preferences.
- vii. Observations of foster child/foster family interactions: Each encounter with foster children is an opportunity for agency staff to assess for child safety

and wellbeing. It is important that the FSC understands the nature of the relationship between foster child and the family in the home. While it is not necessary for the FSC to interview foster children alone, the practice could identify problems in the home not otherwise observable, especially if the child appears to be hesitant or overly affectionate with the foster parent or member of the family. Foster parents shall be asked how they apply the principles of reasonable and prudent parenting by encouraging age- and developmentally-appropriate activities for each child in their home (see Section 760.3 for guidance regarding this standard). viii. Confidentiality and Signatures:

These sections shall be answered and signed as appropriate.

- ix. Three Column Mapping: The FSC shall facilitate a “mapping” discussion with the family and ask, “What is Going Well?,” “What are the Concerns?,” and “What are Next Steps?.” The FSC shall annotate the details of the mapping for inclusion in the foster family record and CAPSS dictation.
- b. The family shall be reminded at all visits of the need to immediately notify the FSC of any changes to the home or its residents, including, but not limited to:
- i. significant changes in family income;
 - ii. plans to open a home-based business (including day care);
 - iii. any structural changes for their home; iv. plans for changes of residence;
 - v. a change in marital status; and
 - vi. the addition of any resident in the home.

If any changes have been made since the license was issued, the FSC shall take appropriate action (note that foster children may be removed from a licensed home while it pends reassessment due to changes).

- i. In all circumstances of significant change, the Foster Care/IFCCS Worker for a child placed in the home must be notified so a decision can be made whether or not to allow the child (ren) to remain in the home as new assessments are conducted.
- ii. If a family moves to a different home, the license is not transferrable. Both fire/safety and health/sanitation inspections must be requested, conducted, and passed.
- iii. If there are structural changes to a licensed home, both fire/safety and health/sanitation inspections must be requested, conducted, and passed.

- iv. If a person over the age of 18 moves into the home, background checks must be obtained in accordance with Section 740.
 - v. If the foster parents separate or divorce, the impact on the home and financial supports shall be reviewed. If the separation or divorce is the result of spousal abuse, additional information such as police reports will be required.
 - vi. If the family opens a home-based business, its nature and impact on the home's physical environment and residents must be evaluated. If the business is a day care, the SCDSS Division of Early Care and Education shall be notified.
- c. At the conclusion of the quarterly visit, the FSC shall set the appointment for the next visit.
 - d. Any concerns, questions, or needs that were discovered during a quarterly visit (or other communication with foster parents) that are specifically related to a foster child must be brought to the attention of the child's Foster Care/IFCCS Worker or Supervisor. This includes any complaints about the worker's visits, visitation with the child's family, and child's behavior after visitation with family, Guardian *ad Litem*, etc. The FSC shall email the foster care worker and supervisor immediately after notification of the concerns.
 - e. All communications with or about families, including face-to-face encounters, correspondence via mail, e-mail, telephone, or text shall be documented in the CAPSS License screen using the dictation code appropriate for the activity.

Special Considerations:

1. Licensing Complaint Concerning a Foster Parent

- a. Upon receiving a complaint of a license violation by a foster parent, the FSC shall staff the complaint with his or her supervisor to determine what actions or steps are necessary.
- b. The FSC shall schedule a visit with the foster family to occur within five working days.
- c. Upon completion of the evaluation regarding the violation, the FSC shall inform the foster parent by letter of the outcome and file a copy in the licensing record.

- d. If the licensing complaint is verified and the problem is satisfactorily resolved, the FSC shall:
 - i. confirm that the foster parent takes necessary and adequate remedial action (and assist if necessary);
 - ii. discuss the remedial action plan and its ongoing status with his or her supervisor;
 - iii. document in writing the satisfactory completion of remedial action by letter to the foster parent;
 - iv. put a copy of the letter in the licensing record; and
 - v. send a copy of the letter to the Foster Care/IFCCS Worker and/or State Office, depending on whether the complaint comes from that source.
- e. If the licensing complaint is verified and the problem is not satisfactorily resolved, the FSC shall:
 - vi. discuss the situation with the FSC's supervisor; and
 - vii. amend the current license to reflect the situation; or
 - viii. in extreme cases, take steps to revoke the license and close the home.
- f. The FSC shall keep the Foster Care/IFCCS Worker of each child in the foster home informed of the situation and of any actions that may be needed on behalf of the child, including the possibility of removal if the license is revoked.

DOCUMENTATION:

- Contacts with foster family and child
- Correspondence with agency staff
- Supporting information regarding license determinations
- Copies of OHAN investigation documents

COLLABORATION:

- Regional Foster Family and Licensing Support Coordinator (FSC)
- Regional Foster Family and Licensing Support Supervisor (FSS)
- Initial Licensing Coordinator (ILC)
- Foster Care/IFCCS Worker
- OHAN Unit

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violation
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act The Americans with

Disabilities Act

- 29 U.S.C.A. § 794: Section 504 of the Rehabilitation Act of 1973
- 29 U.S.C.A. § 705(20)-(21): Section 504 definition of disability
- 42 U.S.C.A. § 12102: ADA definition of disability
- 42 U.S.C.A. § 12103: ADA definition of auxiliary aids and services
- 42 U.S.C.A. §§ 12131-12134: ADA Title II, Public Services
- 42 U.S.C.A. §§ 12181-12189: ADA Title III, Public Accommodations
- 28 C.F.R. § 35.101 et seq.: ADA Title II regulations
- 28 C.F.R. § 36.101 et seq.: ADA Title IV regulations
- 28 C.F.R. § 42.501 et seq.: Section 504 DOJ regulations
- 45 C.F.R. § 84.1 et seq.: Section 504 DHHS regulations

42 U.S.C.A. § 671(a)(10): licensing standards, RPP requirements

42 U.S.C.A. § 671(a)(20): background check requirements, databases, and registries

45 C.F.R. § 1356.30: background check requirements

S.C. Code Ann. § 63-7-2310: FP contact, other adult notification & contact, FP cooperation

S.C. Code Ann. § 63-7-1210 thru 1230: out-of-home investigations

S.C. Code Ann. § 63-7-2340: fingerprinting

S.C. Code Ann. § 63-7-2345: payment of FBI fingerprinting

S.C. Code Ann. § 63-7-2350: restrictions (child abuse, certain crimes)

S.C. Code Ann. § 63-7-2360: minor sex offenders in the home

S.C. Code Ann. § 63-7-2380: foster parent training

S.C. Code Ann. § 63-11-70: background checks; pardons

S.C. Code Reg. § 114-550: licensing regulations

Tools:

Forms:

DSS Form 30244: Quarterly Home Visit Guide

DSS Form 30245: Education and Health Passport

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

760.2 Foster Parent Training

PURPOSE STATEMENT:

As partners in the agency’s mission to provide for the safety and wellbeing of children in foster care, foster parents must possess the necessary knowledge and skills. Accordingly, this section describes the procedures by which the agency will apply and monitor foster parent training requirements at initial licensure and on an ongoing basis.

POLICY:

1. Training for prospective and current foster parents shall include, when available by subject matter, evidence- and research-based curriculum and information.
2. Foster parent applicants must obtain a minimum of 14 hours of pre-service training prior to initial licensure. The training will provide information to prospective parents that will promote critical thinking and understanding in the following areas:
 - a. birth family issues (including introduction to the Shared Parenting model);
 - b. children’s identities, cultural heritage, and self-esteem (including MEPA requirements);
 - c. permanency for children;
 - d. placement stability;

- e. child growth and developmental stages (including information pertaining to the reasonable and prudent parent standard and Independent Living Program services);
 - f. grief, loss, trauma, and separation issues; and
 - g. behavioral concerns and discipline.
3. Licensed foster parents must obtain a minimum of 14 hours of training per year prior to license renewal (28 hours total). When two parents are in a home, each must meet this requirement. Training will be received in the following manner.
 - a. Foster parents may obtain up to 8 recertification hours per 2-year licensing period through on-line training from the National Foster Parent Association or any site linked on their website.
 - b. Foster parents may obtain up to 8 recertification hours per 2-year licensing period through completing mail-in home study modules provided by the Palmetto Health Special Care Center.
 - c. Foster parents may receive up to 4 hours per 2-year licensing periods of childspecific training or instruction as it relates to a foster child placed in the home (e.g. therapy or medical visits with child, WIC education, IEP or 504 conferences with school).
 - d. Foster parents may receive up to 4 hours training recertification hours per 2-year licensing period through attending family strengthening training.
 - e. No more than 8 recertification hours can be claimed on the same topic delivered by the same presenter during a 2-year licensing period.
 - f. Foster parents may obtain unlimited training recertification hours for attending foster care-related training or conferences offered by a State DSS-approved provider. All 28 recertification training hours may be obtained under this option.
 - g. A maximum of 4 recertification hours may be carried over from one 2-year licensing period to the next.
4. Foster parents who received pre-service training prior to July 1, 2016 must attend specific training related to the reasonable and prudent parent standard.
5. It is the foster parents' responsibility to meet the minimum training required for initial and ongoing licensing.
6. Training will be considered to meet licensing requirements if it is a planned and organized activity designed to impart skills, techniques, and methodologies to a foster

parent or a group of foster parents to assist in maintaining the safety, stability, and wellbeing of foster children who reside within their home

7. Individualized instruction specifically to meet a child's needs is acceptable to meet licensing requirements if the instruction was provided by an authorized source and to benefit a foster child placed in the home at the time of instruction.
8. The viewing of standard television programs or reading of articles from popular magazines or daily newspapers shall not be viewed as complying with the completion of pre-service or annual foster parent training requirements.
9. All recertification training must be relevant to:
 - a. the foster care process;
 - b. caring for the child in foster care;
 - c. meeting the emotional, physical, or educational needs of the child in foster care; or
 - d. the impact fostering has on the foster family.

Unrelated training hours will not be accepted toward foster care recertification.

10. All prospective and current foster families must be afforded the same training opportunities. Further, specific training requirements shall not be targeted based on the race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation of the foster child or family. Training on cultural diversity and/or transracial placement must be provided to all prospective caregivers and must be provided in a non-biased, non-threatening environment.
11. A license or license renewal cannot be approved if training requirements are not met.

PROCEDURES:

1. All training hours obtained by a foster parent will be documented in the CAPSS Person screen.
 - a. Upon notification that a prospective foster parent has completed the 14 hours of pre-service training, the Initial Licensing Coordinator (ILC) shall update the CAPSS record using the code, "Pre-Service (14 hours)" and the date of completion. Brief comments received from the trainer may be entered into the Training Comments field. It is especially important that the ILC document any concerns the trainer may have had regarding the suitability of the prospective parents.
 - b. The ILC will file notes and correspondence regarding the pre-service training in the file for reference during application determination.

- c. At each quarterly visit, the Family Support Coordinator (FSC) shall inquire if the foster parents have participated in training. For each new training completed, a copy of the certificate shall be provided to the FSC for the license record.
 - d. The FSC shall annotate the CAPSS record using codes appropriate to the type of training obtained. Most training will fall in the category of "Other" and should be described in the field provided. The date of completion and any comments from the trainer or about the training should be entered into the Training Comments field.
2. The Foster Family and Licensing Support State Director must approve requests for specialized training for foster parents to meet training requirements.
3. Informal training of foster parents is the responsibility of the FSC and shall occur on an ongoing basis. Each conversation with a foster family is an opportunity to provide education about the needs of foster children and relevant systemic issues. These conversations will not be considered as part of the required training. Topics for which the foster families should have knowledge and skills shall include (but shall not limited to) the following:
 - a. protection of foster children from harmful experiences while in care;
 - b. relicensing requirements;
 - c. the purposes of foster care (and the expectation that it is temporary);
 - d. services available to the child and family;
 - e. board payment rates and purposes;
 - f. reimbursable expenses and how to request reimbursement;
 - g. working with birth families;
 - h. medical care and expectations for foster children;
 - i. legal matters in the life of a foster care case;
 - j. the role of DSS and its various program areas;
 - k. participation in Foster Care Review Board updates;
 - l. the reasonable and prudent parent standard;
 - m. special considerations for youth eligible for and/or receiving Independent Living services.

4. Conversations with foster parents on any of the above topics and others should be thoroughly documented in the CAPSS Licensing screen using appropriate dictation codes.

DOCUMENTATION:

- Contacts with foster family and training staff/providers
- Copies of training completion documentation
- Approval documentation for non-agency trainings

COLLABORATION:

- Initial Licensing Coordinator
- Foster Family and Licensing Support Coordinator (FSC)
- Foster Family and Licensing Support Supervisor (FSS)
- Foster Family and Licensing State Director
- Private Training Providers

REFERENCES:

Legal Citations:

Multi-Ethnic Placement Act & Interethnic Adoption Provisions

- 42 U.S.C.A. § 671(a)(18): general mandates
- 42 U.S.C.A. § 622(b)(7): diligent recruitment
- 42 U.S.C.A. § 674 & 45 C.F.R. § 1355.38: enforcement
- 42 U.S.C.A. § 1996b: Title VI violation
- 42 U.S.C.A. § 2000a et seq.: Title VI of the Civil Rights Act
- 42 U.S.C.A. § 622(b)(16): disaster preparedness
- 42 U.S.C.A. § 671(a)(10): RPP requirements
- 42 U.S.C.A. § 671(a)(24): foster parent training, RPP training
- 42 U.S.C.A. § 675(10)-(11): RPP definitions
- S.C. Code Ann. § 63-7-2380: foster parent training
- S.C. Code Reg. § 114-550: licensing regulations

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

760.3 Reasonable and Prudent Parenting

PURPOSE STATEMENT:

Children in foster care should receive the same opportunities as other children to participate in age- and developmentally-appropriate activities that are “normal” in the life of a child. The agency shall require foster placements to provide normalcy for each child in their care. This section sets forth the policies and procedures by which the agency will define, apply, and monitor the provision of these opportunities.

POLICY:

1. The term “reasonable and prudent parent standard” shall mean the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.
2. The term “age- or developmentally-appropriate activities” shall mean:
 - a. activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and
 - b. in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child. Such activities may include, but shall not be limited to:
 - a. sports;
 - b. field trips;
 - c. extracurricular activities;

- d. social activities;
 - e. afterschool programs or functions;
 - f. vacations with a placement lasting up to two weeks;
 - g. overnight activities away from the placement lasting up to one week;
 - h. employment opportunities; and
 - i. in-state or out-of-state travel, excluding overseas travel.
3. All foster placements shall satisfy the reasonable and prudent parent standard when facilitating age- and developmentally-appropriate extracurricular, enrichment, cultural, and social activities for children in their care.
- a. DSS shall apply this requirement as a Standard of Care for all foster family homes (including those managed by private child placing agencies) and group homes in which children are placed.
 - b. DSS shall require the exercise of this standard as a condition in each contract entered into between the state and any private entities that provide placement for foster children.
 - c. DSS shall require that group homes designate at least one on-site official per facility to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the participation of each child in age or developmentally-appropriate activities, and who is provided with training in how to use and apply the reasonable and prudent parent standard.
 - d. When using the reasonable and prudent parent standard, a placement shall consider:
 - i. the best interests of the child, based on information known by the placement;
 - ii. the overall health and safety of the child;
 - iii. the child's age, maturity, behavioral history, and ability to participate in the proposed activity;
 - iv. the potential risks and the appropriateness of the proposed activity;
 - v. the importance of encouraging the child's emotional and developmental growth; and vi. any permissions or prohibitions outlined in an existing court order.
4. The licensing standards and standards of care laid out in this chapter and in DSS Regulations shall be construed as permitting foster placements' use of the reasonable and prudent parent standard.

- a. The agency shall not require that foster placements receive official agency authorization prior to any exercise of the reasonable and prudent parent standard.
- b. However, the agency shall require that foster placements inform DSS staff during routine visits about the activities in which the foster children in their care participate. If such an activity involves one of the following situations, the agency shall require reasonable notice in advance of the commencement of such an activity:
 - i. out-of-state or otherwise significant travel (excluding overseas travel, which shall require agency authorization);
 - ii. supervision of the child by another adult or allowance of a child to be temporarily unsupervised;
 - iii. contradiction of a birth family's expressed wishes or belief system (if parental rights have not been terminated or if a relationship between the child and his or her kin still exists after termination);
 - iv. an important social, cultural, or religious event (e.g., baptism, confirmation, bar mitzvah, etc.);
 - v. any increased level of risk to the child (whether physical or otherwise); or
 - vi. any divergence from plans and/or needs previously discussed by the agency and the foster placement.

Such notice may be in the form of a phone call, text message, email, letter, or inperson conversation with the child's worker. If one of the above activities is to take place routinely, the agency shall (unless special circumstances exist or the situation changes) only require advance notice for the initial occurrence of the activity.

- c. If, after reasonable notification regarding a proposed activity, the agency has concerns about whether the activity is reasonable, prudent, appropriate, or otherwise in the child's best interests, the agency will (when possible) seek to resolve the issue with the foster placement in a timely manner. In some circumstances, if the disagreement cannot be resolved, the agency may choose to remove the child from the placement.
- d. The foster placement shall seek agency authorization in situations in which the agency or birth parent must sign or consent as the child's legal guardian.
- e. Special authorization by the agency shall be required for applications to obtain a driver's license for the child (see Special Considerations below).

5. The following activities shall not constitute reasonable and prudent parenting decisions and shall require agency authorization in accordance with policies and procedures in this manual:
 - a. arranging for a child's travel outside of the United States;
 - b. changing a child's school, school attendance, IEP, or participation in a GED program;
 - c. making drastic, permanent, or long-term changes to a child's physical appearance (e.g., through body piercings, tattoos, etc.);
 - d. changing a child's psychotropic or other prescribed medication, altering the administration of such medication, and/or altering a child's treatment regimen;
 - e. changing a child's religion or involving a child in activities related to a religion against the birth family's wishes (if parental rights have not been terminated or if a relationship between the child and his or her kin still exists after termination);
 - f. consenting to medical procedures (except in emergency situations as described in Section 510.6);
 - g. disclosing the child and/or birth family's image, name, or other personal information in situations other than those specified in Section 760.5;
 - h. changing a child's parent/relative communication or visitation plan in any way;
 - i. changing the communication or visitation plan between the child and his or her siblings; and
 - j. altering or disrupting a child's case plan or transition plan.
6. Nothing in this section shall give foster placements the authority to:
 - a. change the child's placement status, including through reunification with family members;
 - b. violate the Standards of Care set forth in this chapter, including those related to discipline practices; or
 - c. violate or obstruct a court order or court-ordered plan.
7. All placements shall receive training and training materials about knowledge and skills relating to the reasonable and prudent parent standard, including:
 - a. the importance of a child's participation in age- and developmentally appropriate activities;
 - b. the benefits of such activities to a child's wellbeing

- c. knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child; and
 - d. knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one or more days, and to decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.
8. The agency shall provide liability insurance for foster families, and such insurance shall provide coverage for all liability arising from activities properly undertaken in accordance with the reasonable and prudent parent standard (see Section 706.4).
 9. All decisions made by foster placements in accordance with the reasonable and prudent parent standard shall, when possible and appropriate, include consideration and/or involvement of the child's birth family (as set forth in the principles of Shared Parenting).
 10. All decisions made by foster placements in accordance with the reasonable and prudent parent standard shall, when possible and appropriate, include consideration and/or involvement of the child's birth family (as set forth in the principles of Shared Parenting).

PROCEDURES:

1. For reasonable and prudent parenting as a licensing requirement, see Section 720: Standards of Care and Section 741.1: Foster Family Initial Licensing Assessment.
2. For monitoring of a family's exercise of the reasonable and prudent parent standard by the family's Foster Family and Licensing Support Coordinator, see Section 760.1: Home Visits & Foster Family Contacts.
3. For monitoring of a specific child's access to age- and developmentally-appropriate activities by the child's Foster Care/IFCCS Worker, see Section 510.4: Case Planning & Management.
4. For insurance and liability issues related to reasonable and prudent parenting, see Section 760.4: Foster Parent Insurance & Liability.

5. For specific documentation requirements for children with case plans of APPLA, see Section 520.4: Another Planned Permanent Living Arrangement.

Special Considerations

1. Applications for Youth Driver's Licenses

- a. For youth whose parent's rights have not been terminated, the Foster Care/IFCCS Worker shall contact the child's birth parent(s) to seek his or her permission and signature for the child's driver's license application.
- b. For youth whose parent's rights have been terminated, the worker shall:
 - i. upon a request by a placement to obtain a driver's license for the child, determine whether the child is legally free for adoption;
 - ii. if the child is legally free for adoption, determine whether it is in the child's best interests to obtain a license;
 - iii. if it is in the child's best interests to obtain a license, seek approval from the County Director, Regional IFCCS Program Director, Adoption Administrator, or Regional Director and provide the basis for determining that such action is in the child's best interests;
 - iv. if approval is obtained, offer the placement the opportunity to accept financial responsibility for the child by providing the placement with a copy of the DMV Addendum;
 - v. if the placement wishes to accept financial responsibility and sign the DMV Addendum, the worker shall facilitate signature of the document by the placement and the designated agency representative giving approval; and
 - vi. instruct the placement to submit the DMV Addendum along with the application for a license or permit.

DOCUMENTATION:

- Contacts with foster family and child
- Copies of training completion documentation

COLLABORATION:

- Initial Licensing Coordinator

- Initial Licensing Supervisor
- Foster Family and Licensing Support Coordinator (FSC)
- Foster Family and Licensing Support Supervisor (FSS)
- Foster Care/IFCCS Worker
- Training Staff & Providers

REFERENCES:

Legal Citations:

42 U.S.C.A. § 671(a)(10): RPP requirements

42 U.S.C.A. § 671(a)(24): foster parent training, RPP training

42 U.S.C.A. § 675(10) thru (11): RPP definitions

S.C. Code Ann. § 63-7-20: definitions

S.C. Code Ann. § 63-7-25: reasonable and prudent parenting

Tools:

Foster Family Guide for Compliance with the Reason and Prudent Parent Standard

Foster Family Guide for Determining Age- and Developmental-Appropriateness of Extracurricular, Enrichment, Cultural, and Social Activities

Forms:

DMV Addendum

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

760.4 Foster Parent Insurance & Liability

PURPOSE STATEMENT:

The agency is committed to supporting foster families in their provision of care for foster children. In the event that an event occurs for which a foster parent may be liable or entitled to protection against damage incurred, the following procedures set forth the policies and procedures related to foster parent insurance.

POLICY:

1. The agency shall provide liability insurance for foster families, and such insurance shall provide coverage for all liability arising from activities properly undertaken in accordance with the reasonable and prudent parent standard.
2. There are two liability insurance policies for foster parents who are licensed by the agency. This insurance does not provide coverage for foster homes paid by other child placing agencies.
 - a. DSS self-insurance covers small claims up to a limit of \$500.
 - b. A contracted insurance company provides coverage for larger claims with predetermined limits of liability. This coverage is secondary to any other insurance the foster parent may have such as homeowner's, renter's, or automobile insurance.
 - c. There must be a minimum of \$50 damage to file a claim. Submission of a claim does not guarantee payment and there is no time limit for reaching a decision regarding a claim.

PROCEDURES:

1. It is the responsibility of the foster parent to notify the Regional Foster Family and Licensing Support Coordinator (FSC) of an incident that will likely result in an insurance claim or a lawsuit.

2. The FSC shall schedule a visit to the foster home the same day as the report in order to view and photograph the damage and to assist the foster parent in completing the DSS Form 3075: Foster Parent Loss/Claim Form. If the FSC is not available to visit the home on the same day, his or her supervisor will delegate the visit to another FSC in the unit.
3. The FSC will inform the foster parent that he or she should never agree to pay damages caused by a foster child.
4. The FSC will prepare a written statement based on observations of the damage and conversations with the foster child and foster parent. Photographs clearly defining the damage should be included in the report.
5. The foster parent will need an itemized estimate to repair or replace the damaged property. Additional estimates may be required by the insurance company or by DSS.
6. If the foster parents had to call the police to their home in connection with the incident that resulted in damage to their real and/or personal property, a copy of the police report must be provided, if one was generated by the police.
7. If damage is more than \$250.00, foster parents must provide proof that they have filed with their primary insurance company, if applicable, or submit a statement from the insurance company that the damage is not covered by their policy prior to submitting a claim to DSS.
8. After completing the Office Use Only section of the Foster Parent Loss/Claim Form, the FSC will mail the form to the address listed on the Foster Parent Loss/Claim Form along with the following documents:
 - a. the estimate for repair/loss;
 - b. the police report, if applicable;
 - c. any statements by the foster parent or child;
 - d. any statements from the primary insurance company; and
 - e. a copy of the FSC's statement (see above).
9. The Foster Care/IFCCS Worker managing the child's case should be notified and informed throughout the process.

10. State Office staff will communicate with the FSC and Supervisor regarding the results of the claim.

DOCUMENTATION:

- Contacts with foster family and/or insurance companies
- Copy of written statement
- Copy of itemized estimate
- Copy of police report
- Copy of Foster Parent Loss/Claim Form
- Copy of insurance statement, if applicable

COLLABORATION:

- Regional Foster Family and Licensing Support Coordinator (FSC)
- Regional Foster Family and Licensing Support Supervisor (FSS)
- Foster Care/IFCCS Worker
- Insurance Provider
- Designated State Office Staff
- Law Enforcement

REFERENCES:

Legal Citations:

42 U.S.C.A. § 671(a)(10): RPP requirements
S.C. Code Ann. § 63-7-2390: uninsured loss

Tools:

Forms:

DSS Form 3075: Foster Parent Loss/Claim Form

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

760.5 Foster Parent Records & Confidentiality

PURPOSE STATEMENT:

The information required by the agency and retained in foster parents' files is sensitive and private. Likewise, the information foster parents possess regarding the children in their care and their families is also confidential. The following procedures shall be followed to protect the information of foster families and foster children.

POLICY:

1. The agency shall not release information about a foster family or household member to a source outside of the agency unless:
 - a. a court orders the release of information;
 - b. the agency's legal counsel authorizes the release of information; or
 - c. the foster parent signs written consent authorizing the release of the information.
2. Foster families shall not directly or indirectly disclose any information regarding foster children, their biological family, or fictive kin other than to professionals treating, caring for, or providing services to the child or to others as the agency deems appropriate.
3. Although the use of social media by a child shall be considered by the foster family in accordance with the reasonable and prudent parent standard, the foster family themselves shall not share information or pictures regarding the children in their care through any means, including social media. This includes partial disclosures such as initials, stories with names omitted, and/or pictures in which the child's face is not identifiable or visible.
4. In certain situations, it may be reasonable for a child's image, name, or other information to be published by a third party (e.g., the child's name and picture in a yearbook, the child's picture in the newspaper regarding academic or athletic achievements, etc.). If such an opportunity arises for the child, the foster placement shall request consent from the agency prior to allowing the publication of such information. The agency shall consent to the distribution of such information if doing so is in accordance with the reasonable and prudent parent standard and the child's best interests.
5. In extreme cases or cases of repeated violations, failure to protect the privacy of foster children and/or their families may constitute grounds for revocation of a family's license.

6. Foster families shall be allowed to see their licensing record, with the exception of any information identifying a reporter of a protective services allegation.

PROCEDURES:

1. At the time of the family's first placement and then at each quarterly visit thereafter, the Regional Foster Family and Licensing Support Coordinator (FSC) will discuss with the foster parent the need to maintain the confidentiality of the foster child and his/her biological family when a child is placed.
 - a. The FSC shall emphasize that the foster parent is bound by confidentiality law and licensing regulations and that no foster family may directly or indirectly disclose any information regarding foster children, their biological familyrelatives or other individuals who have had control of the foster child other than to professionals treating, caring for, or providing services to the child or others as the agency deems appropriate.
 - b. Information that is disclosed as set forth above is limited to information that is necessary for the child's needs and the pursuit of the child's best interests. The foster parent must not release or disclose information (including a child's picture, name, etc.) unless authorized by DSS.
2. The FSC shall advise the foster parents that they may be allowed, upon request, to see their licensing record, except any information identifying a reporter of a protective services allegation.
3. The FSC shall advise the foster parents that their information will not be released to any source without their written consent, absent a court order to do so.
4. When appropriate, foster parents may be needed to assist the agency with recruitment efforts. The FSC should discuss with the family their willingness and availability to participate in recruitment events, media promotions, and/or interviews for a variety of media sources.
 - a. Foster children will not be identified or used in any recruitment efforts.
 - b. Biological or adopted children of a foster family will only be used in recruitment efforts with the parents' knowledge and written consent.
5. Upon receipt of an application to be licensed as a foster home, the State Office Initial Licensing Coordinator or designee will create a new file record for the family. The following sections will be included for immediate and future use:

- a. Section I -- separated, tabbed and filed in chronological order
 - i. DSS Form 1513 (copy of unsigned, original of signed)
 - ii. DSS Form 3059
- b. Section II -- separated, tabbed, and filed in chronological order
 - i. Monitoring - Dictation (Print out of dictation in CAPSS (optional))
 - ii. Monitoring - Quarterly Visits (Any forms used for documentation of Quarterly Home Visits)
 - iii. Monitoring - Documentation of ongoing training.
- c. Section III -- separated by tabbed dividers, and filed in chronological order
 - i. Safety Issue - Background checks (includes SLED, Central Registry, Sexual Offender checks, and fingerprinting)
 - ii. Safety Issue - Fire Inspections
 - iii. Safety Issue - DHEC Inspections
 - iv. Safety Issue - Medicals
 - v. Safety Issue - Emergency Plans (includes Disaster Plan and Fire Escape Plan)
 - vi. List of Firearms
- d. Section IV -- grouped together by review period
 - i. Re-licensing assessment summary
 - ii. Certificate of Regulatory Compliance
- e. Section V -- Original Licensing Assessment - information for original licensure unless addressed in other sections, to include:
 - i. Assessment Summary
 - ii. DSS Form 1511
 - iii. References
 - iv. Financial forms
 - v. Copies of Driver's Licenses
 - vi. Copies of Social Security cards
 - vii. Documentation of initial training
 - viii. Any other relevant information
- f. Section VI -- separated, tabbed and filed in chronological order
 - i. Correspondence
 - ii. Complaints
 - iii. Miscellaneous -- receipts, vouchers, etc.
- g. CPS information shall never be filed in the licensing record.

- h. Note: If a second volume is created, all medical and fingerprinting data should be moved forward to the new volume along with the most recent documents under Sections I, II, III, and IV.
6. A foster family has the right to review their record at any time, except for sections that would disclose a reporter of abuse/neglect in the home. The FSC assigned to the family shall arrange to supervise the family's review of the record at their home or in the local office in which the record is held. The family should not be allowed to review the record without DSS staff present.

DOCUMENTATION:

- Contacts with foster family, biological family, and child
- Copy of court order, authorization, or written consent

COLLABORATION:

- Initial Licensing Coordinator
- Regional Foster Family and Licensing Support Coordinator (FSC)
- Regional Foster Family and Licensing Support Coordinator (FSS)
- Office of General Counsel
- Family Court

REFERENCES:

Legal Citations:

42 U.S.C.A. § 671(a)(8): confidentiality

S.C. Code Ann. § 63-7-330: confidentiality of reporter information

S.C. Code Reg. § 114-550: licensing regulations

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

760.6 Foster Parent Associations

PURPOSE STATEMENT:

The agency is committed to a collaborative relationship with Foster Parent Associations that serves the needs of foster families. This section describes the policies and procedures to be followed when facilitating this partnership.

POLICY:

1. The agency shall designate Regional Foster Family and Licensing Support Coordinators (FSCs) to be the liaison with the local Foster Parent Associations and shall encourage involvement and support by all staff.

PROCEDURES:

1. The Family Support Coordinator shall:
 - a. represent the agency's viewpoint to the Association;
 - b. attend meetings and functions of the Association;
 - c. apprise staff of the Association's activities;
 - d. when appropriate, seek guidance from his or her supervisor and other staff in working with the Association;
 - e. assist the Association with leadership development;
 - f. assist with the program planning for Association meetings;
 - g. assist with development of Association goals and projects;
 - h. facilitate communication between the agency and foster parents;
 - i. provide support services (e.g. arranging meeting space); and
 - j. discuss with the Association members the impact of MEPA. The FSC shall discuss with the Association members that race, color, national origin, religion, state of residence, age, disability, political belief, sex, or sexual orientation of the

applicant and/or the child involved may not be considered in making foster care placement decisions. Culture may not be used as a proxy for race, color, or national origin in making placement decisions.

DOCUMENTATION:

- Contacts with Foster Parent Association
- Correspondence with agency staff

COLLABORATION:

- Regional Foster Family and Licensing Support Coordinator (FSC)
- Regional Foster Family and Licensing Support Supervisor (FSS)
- Foster Parent Association
- Foster Families

REFERENCES:

Legal Citations:

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

760.7 Disaster Preparedness Plans

PURPOSE STATEMENT:

As a part of the agency's mission to provide safety for children in foster care, the agency shall partner with foster parents to plan for the occurrence of a disaster event. This section sets forth the requirements for disaster preparedness plans and the instruction to be given to foster parents regarding disaster response.

POLICY:

1. Foster families shall have a disaster preparedness plan in place as a prerequisite for initial licensure and for all renewals thereafter. Such a plan shall include the following topics:
 - a. flexible and appropriate responses to various scenarios, including locations in which to seek emergency shelter;
 - b. additional considerations for medically fragile children;
 - c. plans for compliance with mandatory evacuation orders; and
 - d. identification of an approved local shelter or, if plan is to evacuate to a residence, steps for ensuring child safety and continued communication with DSS.

PROCEDURES:

1. The Initial Licensing Coordinator shall review the foster parents' written evacuation plans during the initial assessment and incorporate the plan into the recommendation for licensing. The issuance of a license is tacit approval of the plan.
2. Once a foster home license is issued, the Regional Foster Family Licensing and Support Coordinator (FSC) assigned to the family shall be responsible for updating and reviewing the family's disaster plan at the time of license renewal. The FSC shall be responsible for ensuring the family understands the means by which shelter can and should be utilized during a disaster.
3. The plan (initial and ongoing) should include the following topics:
 - a. disaster preparedness plans that are responsive, flexible, appropriate to the situation and include several locations to choose from; and
 - b. if a child is considered medically fragile, the plan should reflect attendance at either a medically fragile shelter or a home that can accommodate the child's special needs (refer to the county emergency plan for a listing of shelters to accommodate the medically fragile if a listing is available);
4. The FSC shall instruct the family on an ongoing basis that:

- a. foster children must be evacuated when there is a mandatory evacuation order;
 - b. foster parents must evacuate to shelters that have been approved by the local emergency/disaster preparedness plan. Local law enforcement or Red Cross offices have information regarding approved shelters. The FSC will assist the family in determining locations of shelters provided by local emergency protective services;
 - c. when local shelters are used, the foster parents are to confirm that the foster child's name is listed on an attendance roster;
 - d. in the event that the foster parents plan to evacuate to a residence, they must be certain that:
 - i. the location is safe and is large enough to accommodate everyone; and
 - ii. the location of residence is located far enough away to not be threatened by the disaster; and
 - iii. the name, address and telephone number of the residence is available; and
 - iv. the residence is appropriate to the needs of the child.
 - e. Foster parents must alert DSS as to the whereabouts of all foster children. Within 24 hours of an evacuation, or, in the event of phone service disruption, immediately upon restoration of service, the foster parent must call the Children's 24-hour Helpline number to supply the Agency with the following information:
 - i. foster child's name;
 - ii. county or office of case management;
 - iii. foster child's whereabouts and situation; and iv. the telephone numbers where the child/family can be reached.
 - f. within 24 hours of the disaster or as soon as communication with the DSS office managing the foster child's case is available, the foster parent shall contact the child's Foster Care/IFCCS Worker with the following information:
 - i. the safety and condition of the foster child and foster family;
 - ii. the current living arrangements;
 - iii. the condition of the home (if known); iv. whether or not if they can reside in the home (if known).
5. If the home is damaged and requires repair, the FSC shall confirm that repairs meet Standards of Care requirements and fire/safety and health/sanitation requirements.

6. If the foster home is damaged beyond repair or habitation, the foster home license shall be amended to reflect the new address and home environment of the family's residence. The new residence must meet all the requirements for licensing as described in Section 720: Standards of Care and Section 740 et seq. Fire/safety and health/sanitation inspections are required to amend a license.
 - a. If the new home is located in an area outside of the original Health Services Region, the license must be transferred to the appropriate Regional Office, who will oversee the license amendment.
 - b. If the family's new residence is unable to meet licensing requirements or if the family refuses to comply with requirements, the license must be closed and any foster children removed.
 - c. If the home is closed and children removed, immediate notice must be given to the Foster Care/IFCCS Worker.

DOCUMENTATION:

- Contacts with foster family and children
- Copies of shelter listings
- Copy of current disaster preparedness plan

COLLABORATION:

- Initial Licensing Coordinator
- Regional Foster Family and Licensing Support Coordinator (FSC)
- Regional Foster Family and Licensing Support Supervisor (FSS)
- Foster Care/IFCCS Worker

REFERENCES:

Legal Citations:

42 U.S.C.A. § 622(b)(16): disaster preparedness
S.C. Code Reg. § 114-550: licensing regulations

Tools:

Forms:

DSS Form 30246: Foster/Adoptive Family Disaster Plan

Practice Guidance:

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual**CHAPTER 7, Foster Family Licensing and Support**

Revision Number: 16-01

Review Date: 07-21-2016

Effective Date: 07-21-2016

770. The Interstate Compact on the Placement of Children: The Receiving State**PURPOSE STATEMENT:**

The agency is committed to promoting the timely and appropriate permanency for children in foster care when a permanent family is available outside of the borders of the state in which their case originates. To this end, this section lays out the policies and procedures to be adhered to when another state seeks to place a child in South Carolina in accordance with the Interstate Compact on the Placement of Children (ICPC).

POLICY:

1. The agency shall not deny or delay placement of in-state or out-of-state children due solely to the state residency of the child or their prospective caregiver.
2. The agency shall emphasize safety, wellbeing, and permanency for out-of-state children to the same extent and according to the same policies as in-state children.
3. If requested, the agency shall complete a home study for an out-of-state agency in a thorough and timely manner, but no later than 60 calendar days (for standard Regulation 2 requests) or 18 days (for Regulation 7 requests) after DSS receives a complete request from the out-of-state agency. Financial penalties from Title IV-B and Title IV-E federal funds may be imposed for failure to meet the timelines. These timelines do not include completion of foster family training requirements
4. The agency shall provide services and supervision for out-of-state children placed in South Carolina.
5. Regulation 1 of the Interstate Compact allows a receiving state to conditionally preapprove a placement when a foster child moves to another state with the foster parents. SC DSS may use the documentation from the sending state unless there is substantial evidence to the contrary. If a licensed family is moving into South Carolina, the State Office Interstate Compact (ICPC) Office shall receive this information prior to the family arriving in South Carolina.

6. If an out-of-state agency in a thorough and timely manner, but no later than 60 calendar days (for standard Regulation 2 requests) or 18 days (for Regulation 7 requests) after DSS receives a complete request from the out-of-state agency. Financial penalties from Title IV-B and Title IV-E federal funds may be imposed for failure to meet the timelines. These timelines do not include completion of foster family training requirements
7. The agency shall provide services and supervision for out-of-state children placed in South Carolina.
8. Regulation 1 of the Interstate Compact allows a receiving state to conditionally preapprove a placement when a foster child moves to another state with the foster parents. SC DSS may use the documentation from the sending state unless there is substantial evidence to the contrary. If a licensed family is moving into South Carolina, the State Office Interstate Compact (ICPC) Office shall receive this information prior to the family arriving in South Carolina.
9. If an out-of-state foster family moves to South Carolina without prior approval or adequate notice, it is the agency's policy that every effort will be made to bring the placement into compliance. If the family fails to follow through with becoming licensed or information is later obtained that indicates that this family is not appropriate to become foster parents, the sending state shall be notified immediately that the child must be returned to the sending state. However, if foster parents evacuate to South Carolina from another state due to a catastrophic event, such as a hurricane, the federal Administration for Children and Families may issue exceptions for federal funding eligibility.
10. For completion of a South Carolina home study, see Section 740 et seq.

PROCEDURES:

1. Placement of an Out-of-State Child in South Carolina

- a. Upon receiving a request for a home study from a sending state, the State Office ICPC Consultant shall enter the case in CAPSS and shall forward the request to the appropriate Regional Foster Family and Licensing Support (FFALS) Office within eight calendar days. The ICPC Consultant shall indicate the due date on the transmittal.
 - i. For Regulation 2 requests, the request shall be forwarded via NEICE.
 - ii. For Regulation 7 requests, the request shall be forwarded via fax, email, and/or NEICE.
- b. If an incomplete request is received from the sending state, the ICPC Consultant shall contact the sending state. If no additional information is received from the

sending state within three weeks, the packet may be returned to the sending state.

- c. Upon receipt of the request, the Regional Foster Family and Licensing Support Coordinator (FSC) shall immediately review the request and initiate the actions necessary to complete the home evaluation and pre-licensure study. If additional information is needed from the sending state, the worker shall notify the ICPC Consultant no later than ten calendar days after receiving the request.
- d. Within 15 calendar days of receipt, the FSC shall:
 - i. contact the individuals necessary to complete the home study;
 - ii. complete requests for criminal records checks and, if needed, fire and health inspections;
 - iii. identify and notify references;
 - iv. check DSS Family Independence (FI) and food stamp databases and notify FI and food stamps workers regarding placement;
 - v. file copies of the requests in the case record and update CAPSS and NEICE.
- e. The FSC shall complete the home study using the HS ICPC Home Study Guide (see Practice Guidance below). All actions related to the home study shall be entered into CAPSS and NEICE.
 - i. The placement must be denied for licensure or relative approval (other than parent) if the individual or household member's criminal record contains a conviction for which S.C. Code Ann. § 63-7-2350 prohibits licensure. Past criminal convictions do not automatically disqualify a parent as a placement—if such a conviction exists, a staffing must be held with the worker's supervisor to determine whether the charge and the relevant circumstances affects the safety of the child.
 - ii. If the child's parents are the individuals being assessed and they have a treatment plan developed by the sending state, the worker shall determine whether the parents have or have not completed the plan. The worker must consider information from the sending state, information from local service providers (if applicable), and any other information gathered during the home study in making this determination.
 - iii. The completed home study must include the date, signature, and certification number of the worker and/or the worker's supervisor. One certification number is mandatory for the study.

- iv. The worker shall provide the prospective placement with a copy of the completed home study and shall advise them that they have three business days to notify the worker regarding corrections to the information in the study. The prospective placement may request a review by the County Director if the decision is not to recommend the family as a placement for the child. The County Director has the final decision-making authority regarding the agency's recommendation.
- f. If the home study cannot be completed within the 60-day timeframe, the FSC shall provide the ICPC Consultant with a written report by the 50th day. The report must contain the following information:
 - i. information regarding the family members, home environment, and any safety or risk issues;
 - ii. reasons for the delay;
 - iii. an explanation that completing the home study is in the best interests of the child;
 - iv. an explanation that no recommendation is being made at this time until all information has been obtained;
 - v. an estimated date of completion.
- g. The FSC shall forward one copy of the completed report/study to the State ICPC Unit Office.
- h. The ICPC Consultant shall complete and sign DSS Form 3049 (ICPC 100A) approving or denying placement and shall notify the sending state.
- i. The sending state shall accept the home study if approved by DSS standards, unless the sending state notifies the State Office ICPC Unit within 14 days of receipt that reliance on the report would be contrary to the child's welfare.
- j. If the placement is approved, the sending state shall arrange the placement and shall submit DSS Form 30126 (ICPC 100B) to the State Office ICPC Unit verifying the date of placement.
- k. Upon receipt of notification that the child has been placed, the designated county worker shall immediately begin supervision. Supervision can begin prior to receipt of DSS Form 30126 (ICPC 100B) if the receiving state has been informed by other means that the child has been placed pursuant to an approved placement under Article III(d) of the ICPC.
 - i. The sending state shall be responsible for case planning, financial and medical needs, and meeting any identified needs of the child. DSS shall be responsible for assisting the sending state in locating appropriate

- resources for the child/family and monitoring the safety and well-being of the child.
- ii. Minimum supervision shall include monthly face-to-face contact with the child and an assessment to confirm safety.
 - iii. If custody or guardianship is the permanent plan for the child, the worker shall review the permanent plan after the child has been in the home for at least six months. The worker shall recommend to the sending state that the caregivers receive custody or guardianship of the child, if such a transfer would be in the child's best interests and all parties are in agreement.
 - iv. Supervision, including the submission of quarterly reports (see below), shall continue until the sending state sends notification via DSS Form 30126 (ICPC 100B) that supervision is no longer required.
 - v. If there are any concerns about the child's safety, the designated county worker shall follow up immediately. If the concerns rise to the level of abuse or neglect, the worker shall report the abuse to OHAN. If threats to safety are identified, the worker shall notify the sending agency immediately and shall contact the ICPC Consultant to arrange for the immediate return of the child to the sending state (if appropriate).
 - vi. All actions shall be entered into CAPSS and NEICE.
- I. The designated county worker shall complete a progress report to be forwarded to the State Office ICPC Unit no less than quarterly (see Practice Guidance below).
 - i. Information must be provided as requested on the DSS Form 3049 (ICPC 100A). The report must also include the specific dates of face-to-face contact with the child and must identify which of the contacts were in the placement setting. If the placement is licensed, the Licensing Worker shall be consulted.
 - ii. The worker's supervisor shall review the quarterly or other written reports and shall indicate approval by signing, dating, and forwarding the report to the ICPC Consultant.
 - m. The designated county worker shall close the case upon receipt of the proper DSS Form 30126 (ICPC 100B) from the State Office ICPC Unit or receipt of a court order approving closure of the case.

2. Reconsideration of ICPC Home Study Denial

- a. Within 90 days of a denial on an ICPC Form 100A, the sending state can request a reconsideration. If the ICPC Consultant determines that it is appropriate to review the denial, the consultant may either:
 - i. send the request to the appropriate Regional FFALS Office for a new study or updated addendum that addresses the reasons for denial and if they have been corrected. DSS will have 50 days to re-examine the situation; or
 - ii. make a redetermination based on the evidence provided by the sending state.
- b. The ICPC Consultant will convey the determination to the sending state with a new DSS Form 3049 (ICPC 100A).

3. Disruption of an ICPC Placement

- a. If an ICPC placement disrupts, the designated county worker shall notify the sending state to make arrangements for the child's return and shall submit a written summary of the disruption to the sending state's ICPC Office. Return of the child must occur within five working days of the notice of removal unless alternative arrangements have been agreed upon by the two states.
- b. If the designated county worker cannot elicit a response from the sending state, the worker shall contact the State Office ICPC Consultant for assistance.
- c. The designated county worker shall document all actions in CAPSS.

Special Considerations:

1. Receipt of a Regulation 7 Request

- a. ICPC Regulation 7 provides for a priority request process. The provision provides that home studies be completed within 30 days provided that the request meets the following criteria and that the criteria is stipulated in the Regulation 7 court order:
 - i. unexpected dependency due to a sudden or recent incarceration, incapacitation or death of a parent or guardian. Incapacitation means a parent or guardian is unable to care for a child due to a medical, mental or physical condition of a parent or guardian, or
 - ii. the child sought to be placed is four years of age or younger, including older siblings sought to be placed with the same proposed placement resource; or

- iii. the court finds that any child in the sibling group sought to be placed has a substantial relationship with the proposed placement resource. Substantial relationship means the proposed placement has a familial or mentoring role with the child, has spent more than cursory time with the child and has established more than a minimal bond with the child; or iv. the child is currently in an emergency placement; AND
- v. the degree of relationship to the child must be parent, step-parent; grandparent; adult brother/sister or adult aunt/uncle (documentation must include the individual's name, address and telephone number).
- b. Within two business days of receiving a completed request packet, the ICPC Consultant shall forward the request to the appropriate FFALS Office.
- c. Within fifteen business days, the FSC shall complete the home assessment/study or provide information explaining the delay, along with an estimated date of completion.
- d. No later than three business days after receipt of the assessment/study from the FSC, the ICPC Consultant shall send the completed ICPC Form 100A containing the approval or denial of the placement to the sending state.
- e. If, at any time, the sending or receive states find that the request lacks certain information, the local sending county worker will be notified of the missing information and the process will halt until the information is communicated. If the sending state fails to correct this information within three business days, the packet will be treated as a normal Regulation 2 request.

2. Out of State Foster Parents Moving to South Carolina

- a. Upon receiving a request from a sending state to license a foster parent moving to SC, the ICPC Consultant shall:
 - i. conduct a review of the materials submitted and may grant a conditional approval contingent upon the foster parent completing all the requirements for licensure;
 - ii. forward the licensure request to the appropriate FFALS Office and to the county office which will be responsible for monitoring the child, attention: Human Services Program Coordinator.
- b. Upon receipt of the DSS Form 30126 (ICPC 100B), the FFALS Supervisor shall assign an FSC to complete the home study.
- c. The FSC shall receive the request for licensing and review documentation of licensure from the sending state including background checks, copies of the

family's license, complaints, training, etc. Documentation of training hours (conducted out-of-state) may be accepted provided that the training was conducted in the past year and the content of the training is appropriate (see Section 760.2).

- i. Note: An exception has been granted to review and consider accepting foster parent training hours received from out of -state child welfare agencies. This exception is to prevent unnecessary placement disruptions for the foster child and is specific only to this situation. Outof-state foster parents must be provided orientation training specific to SC DSS policies and procedures.
- d. The FSC shall complete the foster home licensing study within 120 days of receipt of a complete referral.
- e. The FFALS Supervisor shall review the completed licensing study and indicate approval by signature and date and forward the study to the ICPC Consultant for review, approval or denial, and processing.
- f. The ICPC Consultant shall review and forward the packet of information and a signed DSS Form 3049 (ICPC 100A) to the sending state.
- g. The designated county worker shall monitor the placement in accordance with licensing regulations and submit progress reports, through State Office ICPC Office, on a quarterly basis unless requested to use other time frames.
- h. The license of the home shall be renewed every 2 years by the Foster Family and Licensing Support Unit.

DOCUMENTATION:

- All correspondence with DSS staff
- All communication with receiving/sending state staff
- All contacts with family and/or child
- Copies of all ICPC forms, reports, and documentation
- Dictation or copies of out-of-state dictation

COLLABORATION:

- Designated County Worker
- Regional Foster Family and Licensing Support Coordinator (FSC)
- Regional Foster Family and Licensing Support (FFALS) Office
- State Office ICPC Unit
- ICPC Consultant

- ICPC Administrative Assistant
- Sending/Receiving State Staff
- DSS Attorney
- SC Family Court

REFERENCES:

Legal Citations:

42 U.S.C.A. § 671(a)(23): denying/delaying out-of-state placement

42 U.S.C.A. § 671(a)(25) & (26): ICPC

S.C. Code Ann. § 63-9-2200 thru 2290: ICPC

S.C. Code Ann. § 63-15-300 thru 394: UCCJEA ICPC Regulations,
available at

<http://www.aphsa.org/content/AAICPC/en/ICPCRegulations.html>

Tools:

National Electronic Interstate Compact Enterprise (NEICE)

Forms:

DSS Form 3049 (ICPC 100A): ICPC Request

DSS Form 30126 (ICPC 100B): ICPC Report on Child’s Placement Status

ICPC Statement of Interest

Practice Guidance:

ICPC Home Study Guide

This section serves as a guide for completing an interstate home study request. This format is generally agreed upon by all states.

1. Identifying Information

Name of Caseworker

Name of Supervisor

Name of County Office

Name of Address of Proposed Placement

Name(s) of ICPC Child(ren)

Date Prepared

Date of Home Visit(s)

2. Composition of the Family - Include listing of all household members living in the home, their ages, relationship to the individual being studied, occupations, previous marriages, and an overall assessment of functioning as a family
3. Physical Description of the Home Environment - Include pertinent information about the condition of the home, sleeping arrangements, plans for accommodating the child to be placed, etc. Review fire and safety hazards (such as unlocked firearms, accessible poison, overloaded outlets or extension cords; exposed electrical wiring, peeling or flaking paint, broken windows, doors, steps; holes in walls or floor or ceilings; rodent or insect infestation, unsanitary plumbing. Indicate if home has easy access to a telephone and to reliable transportation.
4. Financial Situation - Include specific information on the economic situation of the family, including income, assets, financial obligations, and general money management, etc. Indicate if family is receiving Family Independence (TANF) food stamps or Medicaid. Note: The family must be informed that FI or FS staff will be notified of proposed placement. The household should not be dependent solely on child's income or board payment.
5. Medical Information - Include any important past, current or potential health problems.
6. Family Activities - Include information about activities that the family enjoys participating in.
7. Motivation and Attitudes of All Family Members Toward the Proposed Placement – Include step-parents, step-siblings, half-siblings, and all other household members
8. Continued Involvement of the Family with the Biological Parents - Include any visitation with the biological parents, any attitude toward biological parents and siblings, plans to reunite the child with biological parents, the ability to protect the child from the biological parents if necessary, etc. Indicate if family can meet the safety needs of the child.
9. Assessment of Parenting Capacities - Indicate specifically how the caregivers can or cannot meet the individual needs of the child including the child's safety,

permanency, physical and mental health, well-being, (emotional and physical development of the child). Describe observations or history of indicators of alcohol or other drug abuse, of domestic violence, child abuse or neglect, mental health, mental retardations, physical disabilities, education & occupations. Describe the family, their relationship with their own parents and siblings in childhood and early adult years, their styles of parenting, relationship with their children, sibling relationship, methods of discipline, and willingness to seek and use help from appropriate social agencies.

Note: Placement of a child cannot be recommended for a caregiver or household member, who has an indicated case for abuse or neglect or has a conviction for a criminal offense for crimes listed in SC Statute 20 – 7-1642. If a biological or legal parent has a conviction, consideration must be given to the circumstances and how that affects the safety of the child. Describe rehabilitation efforts since the criminal conviction.

10. Treatment Resources Available in the Community - Include information about medical facilities, educational resources such as special services for the emotionally handicapped, availability of counseling services in the community as necessary or potentially necessary for the child based on the information given by the sending state.
11. Type of Board Payments - Specify whether child will be receiving regular or Title IV-E Board Payments (if applicable).
12. Medical Plan – Indicate what the plan is to meet the medical needs of the child; if the caregiver will be assuming responsibility for meeting costs of medical needs, obtain a statement from the caregiver indicating the willingness and resources available. If child is not IV-E eligible for SC Medicaid, indicate how caregivers can utilize Medicaid from the other state, including the necessity of identifying a provider willing to accept reimbursement from another state.
13. Caregiver’s Perception of Permanent Plan for the Child - Does the caregiver expect this to be a short or long term placement, plan to adopt, etc.? Specify if the home environment will meet the permanency needs of the child until the child reaches age 18.

14. References - Include references from at least two non-related persons regarding the family's ability to care for the child. References should have known the family at least three years of the last six years.

15. Other comments:

16. Determination of Home Environment to meet the Individual Needs of the Child- The home study must have a determination whether a placement is appropriate and whether there are any risk factors identified. If the parents are completing a treatment plan and they are not in a position to care for the children at this time, then describe the obstacle and what issues need to change.

Progress/Quarterly Report Guide

This section provides clarification regarding Interstate Compact progress reports. Progress reports must be submitted (at a minimum) on a quarterly basis to the sending state through the State Office Interstate Compact unit. The following outline describes the information to be included and applies to parents, relative and other caregivers.

1. Identifying Information:

Name and date of birth of child;

Name, relationship, and address of the placement resource;

Date of Placement with resource; name of the sending state;

2. Dates and types of contacts: report must specify which contacts are face to face;

3. Physical condition of the home;

4. Current status of caretaker and family: any changes in family composition, health, financial situation, work, legal involvement, social relationships;

5. Child care arrangements, if any;

6. Current functioning of children: adjustment to placement, school (include name and grade), health, relationships with peers and adults, behaviors/emotional concerns, delinquent activity, special services, results of any new evaluations, special interests/hobbies/events (including all age- or developmentally-appropriate activities undertaken pursuant to the reasonable and prudent parent standard);

7. Contacts with biological parents or relatives, what type, where? With whom? quality of contact?, and the child's reaction?.
8. Financial/medical provisions for child and caregiver: how child is supported. If sending state is responsible, are there any problems/is there a problem with medical coverage. Suggestions for resolution;
9. Assessment of placement: must include current safety assessment; is the caretaker meeting child's needs/ what is the caretaker's commitment to child? List strengths and weaknesses;
10. Permanent plan status: what progress has been made toward permanent goal? Has goal changed? Are there any recommendations?
11. Recommendation for transfer of custody, adoption, or discharge of sending state's legal jurisdiction (when appropriate); if transfer of custody is recommended, specify how family functioning demonstrates the stability of the placement without agency support.
12. Signature of worker and supervisor, date, and name and telephone number of county office.

REVISION COMMENTS:

South Carolina Department of Social Services Human Services Policy and Procedure Manual

CHAPTER 7, Foster Family Licensing & Support

Revision Number: 16-1

Review Date: 07-21-2016

Effective Date: 07-21-2016

780. Appeal of an Adverse Agency Decision

PURPOSE STATEMENT:

In the event that DSS makes a decision that is adverse to the interests or desires of the foster parents, the agency will provide fair review process. The following section sets forth the policies and procedures to be followed when a foster parent chooses to appeal an agency decision.

POLICY:

1. The agency shall inform all foster families and foster family applicants of their right to appeal a denial or revocation.
2. Upon receipt of a request for an appeal, the Office of Administrative Hearing (OAH) shall schedule a Fair Hearing. The Hearing shall be conducted by a three member panel comprised of a Hearings Officer and two members appointed by the State Director. A decision shall be reached within 30 days of the hearing and the written result shall be sent to all parties.

PROCEDURES:

1. When a license or renewal is not recommended for approval or renewal, the family must be informed of their right to appeal.
 - a. The ILC or FSC shall provide assistance to the family as needed to begin the appeal process, including providing services to comply with language or medical barriers.
 - b. If an application or renewal is denied, the ILC or FSC supervisor shall draft a letter which specifies the reason(s) for the denial, including references to applicable statutes and/or agency policies and/or applicable foster care regulations, and which advises the applicant of the right to appeal this decision by submitting a written request to the Office of Administrative Hearings (OAH),

P.O. Box 1520, Columbia, SC 29202 within thirty (30) days of the date of receipt of the letter.

- c. The letter shall be submitted to the State Licensing Manager or designee for review and mailing. The letter will inform the family of the right to request a conference with the State or Regional Director or his or her designee.
2. The ILC or FSC shall cooperate with State Office staff and testify at any hearings or deposition interviews
3. All information shall be dictated into the CAPSS Licensing screen as appropriate.

DOCUMENTATION:

- Contacts with foster family
- Correspondence with agency staff
- Copy of denial letter
- Copy of written request for hearing
- Copy of final OAH order

COLLABORATION:

- Initial Licensing Coordinator (ILC)
- Regional Foster Family and Licensing Support Coordinator (FSC)
- State Licensing Manager
- State/Regional Director and/or Designee
- Office of Administrative Hearings (OAH)

REFERENCES:

Legal Citations:

42 U.S.C.A. § 671(a)(12): fair hearing requirements
S.C. Code Ann. § 1-23-310 et seq.: Administrative Procedures
Rules of Procedure for the Administrative Law Court

Tools:

Forms:

Practice Guidance:

REVISION COMMENTS:

EXHIBIT 5

EMERGENCY CONTRACT
BETWEEN
THE SOUTH CAROLINA DEPARTMENT
OF SOCIAL SERVICES
AND
SOUTH CAROLINA MENTOR

CONTRACT NUMBER: 4400024512

FOR THE PURCHASE AND PROVISION OF Statewide support for non-therapeutic foster families that serve children of all ages. This contract is entered into as of August 1, 2020 by and between South Carolina Department of Social Services, Post Office Box 1520, Columbia, South Carolina 29202-1520 hereinafter referred to as "SCDSS" and, South Carolina Mentor, 280 Merrimack Street, Suite 600, Lawrence, Massachusetts, 01843, hereinafter referred to as "Contractor".

RECITALS

WHEREAS, The Contractor meets applicable standards as a provider of services specified herein.

WHEREAS, It is the intent of the South Carolina Department of Social Services (SCDSS) to contract with currently licensed Group Homes, who are also licensed Child Placing Agencies (CPAs), to support non-therapeutic foster families that serve children of all ages.

WHEREAS, This is an emergency contract intended to enable SCDSS to immediately utilize CPAs to facilitate the placement of children in foster care, and is offered for the limited purpose of enabling SCDSS to fill this need in the interim until the full solicitation is available.

NOW THEREFORE, the parties to this contract, in consideration of the mutual promises, covenants, and stipulations set forth herein, agree as follows:

**ARTICLE I
CONTRACT PERIOD**

The emergency contract must take effect as of August 1, 2020 and must continue in full force and effect through December 31, 2020. The services described herein must be provided throughout the entire contract period either through funds made available by this contract or by other funds. This contract is effective between the parties as of the effective date specified herein.

**ARTICLE II
STATEMENT OF WORK**

1. The emergency contract is to assist with group home diversification.
2. Contractor must support non-therapeutic foster homes.
3. Homes are needed to serve the following population: children of all ages who have been abused, neglected, threatened with harm, experienced trauma, must have grown up in dysfunctional families, been exposed to domestic violence, or have experienced multiple placements.

**ARTICLE III
CONTRACTOR RESPONSIBILITIES**

1. Contractor must make foster homes available for placement of a child upon receiving an approved license.
2. Contractor must provide training and support to foster families for a wide range of children in care to account for variations in age, developmental status, disciplinary issues, cultural sensitivities, and provide timely and appropriate responses to potentially disruptive situations. Contractor must ensure foster homes are able to receive support twenty-four hours per day, seven days per week.
3. Contractor must assist foster families, pursuant to SCDSS regulations, in working with birth families (including immediate and extended family) to achieve positive permanency alternatives: reunification, adoption, legal guardianship, permanent custody, kinship care or other planned living arrangements for the child.
4. Contractor must provide on-going support services. Support services must include but are not limited to:
 - a. One-on-one mentoring (making experienced foster families available to advise new foster families)
 - b. Conferences and seminars for licensed foster families
 - c. Respite care between licensed foster families
 - d. Resource sharing (accepting contact information from foster families with cribs, beds, car seats, clothes, etc. to donate and sharing the contact information with foster families needing those items)
5. **Contractor must provide intake referral services twenty-four hours per day, seven days per week.**
6. Contractor must provide DSS with an open bed list. The open bed list will be submitted by 12pm on Friday of each week.
7. Contractor must provide DSS with their after-hour contact information and procedures will submit changes to this information and/or procedures by 3pm on Friday of each week.
8. Referrals for Placement:
 - a. During Business Hours:
 - SCDSS will email the Universal Application
 - The receiving agency will send an email confirming receipt of the referral to the appropriate email address:
 - UpstatePlacementUnit@dss.sc.gov
 - MidlandsPlacementUnit@dss.sc.gov
 - LowcountryPlacementUnit@dss.sc.gov
 - PeeDeePlacementUnit@dss.sc.gov

- The CPA will provide SCDSS periodic updates on their search status to the above listed appropriate email address and includes the following:
 - Child's name
 - Date of Birth
 - County/Counties being searched for placement
- b. After Hours:
 - The placement referral will be made by phone
 - The receiving agency will provide periodic updates on placement search through text message, telephone call, or email.

SCDSS:

1. DSS will provide the Universal Application when making a referral for placement.
2. DSS will call the receiving agency if placement is needed and it is after-hours.
3. DSS will notify all agencies that were contacted for placement within 15 minutes of a placement being secured.
4. DSS will provide to the CPAs the Regional Licensing Offices' On-Call schedule by 12pm on Friday of each week.

Contractor's Responsibilities pertaining to matching and recommendations

- A. The SCDSS retains authority for all (initial and subsequent) placement decisions. The SCDSS must provide the Contractor with pertinent information on children in its care, and the Contractor must identify foster families that are best matched to each child/youth. The Contractor will then notify the SCDSS on the specifics of the home in order for DSS to coordinate placement of the child/youth in the foster home.
- B. **Due to Federal Child Welfare National Standards of Placement Stability, Contractors must not move a child (youth) from one home to another without SCDSS prior written authorization, nor to a foster home that is outside of the previous county of residence and/or outside of the previous school district (during the middle of a school year) without SCDSS prior written authorization. SCDSS must have the sole authority to move or approve the Contractor to move a child from one home to another. The child must not be moved for any reason unless a safety or emergency arises and Contractor must contact SCDSS within 24 hours of the event.**

Contract Monitoring and Corrective Action Plans

- A. At any time, SCDSS and/or appropriate federal agencies must deem necessary, Contractor must make all program records and service delivery sites open to DSS to perform program reviews. SCDSS must have the right to examine and make copies, excerpts, or transcripts from all records,

contact the client for documentation of service delivery, and to conduct on-site reviews of all matters relating to service delivery as specified by this contract.

- B. Monitoring reviews must describe issues in internal contract and/or program compliance. Within 15 business days of receiving notification of issues, the Contractor must submit a corrective action plan to address the issue, indicating the actions taken, actions to be taken, dates of anticipated completion, and contact person responsible, or submit an explanation of specific reasons why no corrective action is required.

Reporting Requirements

Reports must be submitted as follows:

Monthly reports from August 1, 2020 through and including December 31, 2020 must be submitted within 5 business days following the service month and must include the following:

- Total number of licensed foster homes as of the last calendar day for the previous reporting month
- Names of newly licensed foster homes for the previous reporting month
- Names of closed licensed foster homes for the previous reporting month
- Number of homes with foster care placements at any point during the previous reporting month
- Number of children placed at any point during the previous reporting month
- List of support services provided by home for the previous reporting month (i.e., one-on-one mentoring, resource sharing, etc.)

Reports must be filed as follows, and the Contract Monitor shall forward all reports to the program areas within 24 hours of receipt of the reports:

South Carolina Department of Social Services
Attention: Contract Monitoring
1628 Browning Rd
Columbia, SC 29210

ARTICLE IV SCDSS RESPONSIBILITIES

SCDSS agrees to purchase from the Contractor and to pay for the services provided pursuant to this contract in the manner and method herein stipulated:

A. Payment for Allowable Expenditures Only

SCDSS will make payment only for allowable expenditures reasonably and necessarily incurred by the Contractor in the course of providing services pursuant to this Contract. Payment by SCDSS for services provided pursuant to this contract constitute payment in full to the Contractor and

the Contractor must not bill, request, demand, solicit or in any manner receive or accept payment or contributions from the client or any other person, family member, relative, organization or entity for care or services to a client except as must otherwise be allowed under the federal regulations or in accordance with SCDSS policy. Any collection of payment or deposits in violation of this section must be grounds for termination of this Contract, and reimbursement for any services to clients made after such collection or attempt to collect must be denied by SCDSS, and must be subject to recoupment for any client payment made.

B. Limit on Total Reimbursement

SCDSS will reimburse the Licensed Regular Child Placing Agency under this emergency contract a monthly rate of \$300 per child (or \$10 per child if less than 30 days in a given month). Please note the day of discharge is not a billable day.

TOTAL FUNDS: \$150,000.00

**ARTICLE V
REIMBURSEMENT PROCEDURES**

A. Request for Reimbursement

Invoicing for payment of all invoices from August 1, 2020 through and including December 31, 2020 must be submitted within 20 business days of the execution of this contract. Any invoices or fees previously paid prior to the execution of this contract, via any payment system, must not be resubmitted for payment. Invoices submitted on any other form will not be processed and will be returned to contractor. Completed, signed invoices can be submitted via the following two methods:

Scanned/emailed (preferred method) to VendorInvoice@dss.sc.gov

US Mail to: South Carolina Department of Social Services
Attn: Program Development, Room 502
PO Box 1520
Columbia, SC 29202-1520

B. Form of Report or Request

Requests or reports must be filed upon the designated form to be provided by SCDSS and completed in accordance with detailed instructions to be furnished for the applicable form.

**ARTICLE VI
AUDITS AND RECORDS**

At any time during normal business hours and as often as SCDSS, the State Auditor, the Office of the Attorney General, GAO, DHHS, and any other appropriate federal agency and/or the designee of any of the above must deem necessary, the Contractor must immediately make available for examination all

records of the Contractor with respect to all matters covered by this contract. The must permit any of the above to audit, examine, make copies, excerpts, or transcripts from such records and contact and conduct private interviews with Contractor clients and employees and on-site reviews of all matters relating to service delivery. If any audit, litigation, claim, or other action involving the records has been initiated prior to the expiration of a three (3) year period since the date of contract termination/expiration, this Article and the terms hereunder must continue to apply until the action is completed and the issues are resolved.

A. AUDIT REQUIREMENTS

The Contractor agrees that it must comply with all federal and/or state audit requirements.

1. Private for Profit

Private for Profit sub-recipient organizations that receive \$750,000 or more in federal financial assistance from SCDSS in a fiscal year must obtain an annual audit conducted in accordance with Uniform Guidance 2 CFR, Part 200, and Subpart F - Audit Requirements.

2. Audits of States, Local Governments and Non-Profit Organizations

States, local governments and nonprofit sub recipient organizations (both private and public) that expend \$750,000 or more in federal financial assistance from all sources in a fiscal year must have a single audit conducted in accordance with 2 CFR, Part 200, Subpart F – Audit Requirements.

3. Additional Audit Requirements - State Funds

Organizations that receive more than \$75,000 in state funds from SCDSS in a fiscal year are required to obtain an annual financial audit. This Audit must be performed in accordance with auditing standards and generally accepted accounting principles as defined by the AICPA.

4. Filing Audit Reports

Each organization required to have an audit must supply a copy of such audit, data collection form, reporting package, any management letters associated with the audit, and Contractor's corrective action plan to the South Carolina Department of Social Services, Office of Internal Audit, Post Office Box 1520, Columbia, South Carolina 29202-1520, within fifteen (15) calendar days of the receipt of such report.

5. Working Papers

Working papers are to be retained by the audit firm and must be available for examination by SCDSS or its designee for at least three (3) years following the issuance of the audit report to the auditee. Retention of working papers beyond three (3) years is required where questioned costs and/or practices have not been resolved with SCDSS.

B. CORRECTIVE ACTIONS PLANS

When the audit describes issues or matters of concern in Internal Controls and/or Program compliance, the Contractor must submit a corrective action plan to eliminate the weaknesses, while indicating the actions taken, actions to be taken, dates of anticipated completion, and

contact person responsible, or in the alternative, submit an explanation of specific reasons why no corrective action is required. The corrective action plan must be submitted along with the audit report or reporting package within thirty (30) days of the receipt of the final audit report/management letter. Corrective action must be initiated within 45 days of the receipt of the audit report and proceed as rapidly as possible. In the event that an audit report contains audit exceptions or disallowances, it is agreed that the following procedures must be used in making the appropriate audit adjustment(s):

1. Notice of Exception and Disallowances

SCDSS must furnish the Contractor with written notice containing the adjustment for each exception. Such notice must state the total sum disallowed and that payment is due to SCDSS in the full amount within thirty (30) days after the receipt of notice. Notice will be sent to the Contractor by certified mail. Audit exceptions or disallowances must be accepted as final unless appealed within thirty (30) days of receipt of the notice of disallowance. Payment must be made within thirty (30) days from the receipt of notice of disallowance regardless of the filing of an appeal.

2. Disallowances - Appeals

In the event the Contractor disagrees with the audit exceptions and disallowances, they must seek relief in accordance with Article VIII Appeals Procedures.

3. Disallowances Sums, Set-Off

Any provision for contract resolution notwithstanding, SCDSS is authorized to recoup at any time after receipt of the notice of disallowances any funds owed to SCDSS. The means of recoupment must be by withholding and/or offsetting such funds for which SCDSS must be obligated to the Contractor under this or any previous and/or future contracts. Provided, however, if the Contractor can demonstrate that such withholding or set-off would constitute a serious hazard to the quality of services, SCDSS must, in its sole discretion, grant such repayment terms as must be determined by SCDSS to be consonant with sound business practice.

4. Interest Provision/Repayment (for Disallowed Amounts)

The Contractor must pay interest on the disallowed amount with said interest accruing from the thirtieth (30th) day following the date of receipt of the notice of disallowance. The Contractor must request that they be permitted to make repayment on an installment payment schedule. Such request must be made in writing within thirty (30) days of the receipt of the notice of disallowance and must contain evidence to support the Contractor's allegation of financial inability to pay the sum in full. At the sole option of SCDSS, SCDSS must agree in writing to permit the Contractor to repay pursuant to an installment payment schedule. The interest rate imposed by SCDSS is the legal interest rate per S.C. Code, Section 34-31-20(B).

5. Audits During and After the Contract Period

The provisions of this Article must apply to audits commenced during the contract period and audits commenced after termination of this contract and for a period of three (3) years thereafter.

C. ACCURACY OF DATA AND REPORTS

The Contractor agrees that all statements, reports, and claims, financial and otherwise, must be certified as true, accurate, and complete, and the Contractor must not submit those claims, statements, or reports which they know, or has reason to know, are not properly prepared or payable pursuant to federal and state laws, applicable regulations, this contract, and SCDSS policy.

1. Maintenance of Records

The Contractor must maintain an accounting system with supporting fiscal records adequate to assure that claims for funds are in accordance with this contract and all applicable laws, regulations, and policies. The Contractor must keep one (1) copy of the OMB approved Data Collection Form. The Contractor further agrees to retain all financial and programmatic records, supporting documents, and statistical records under this contract for a period of three (3) years after the expiration of this contract. Property and equipment records must be maintained until three (3) years after transfer, replacement, sale, or junking of the item. If any audit, litigation, claims, or other actions involving the records have been initiated prior to the expiration of the three (3) year period, the records must be retained until completion of the action and resolution of all issues.

**ARTICLE VII
TERMINATION OF CONTRACT**

A. Termination for Lack of Funds

Funds for this Contract are payable from State and/or Federal appropriations. In the event the SCDSS determines that sufficient appropriations are not made to pay the obligations under the Contract the SCDSS must terminate the Contract. Termination must be effective without penalty or termination costs. SCDSS must have the sole responsibility for determining the availability of such federal, state, and local funds.

B. Termination for Breach of Contract

This Contract must be canceled and terminated by either party at any time within the contract period whenever it is determined by such party that the other party has materially breached or otherwise materially failed to comply with its obligation hereunder.

C. Termination for Breach of Previous Contracts or Non-Payment of Previous Audit Exceptions

This Contract must be cancelled or terminated by SCDSS at any time within the Contract period if the Contractor, after exhaustion of all administrative and judicial appeals, has failed to make

payment in full to the SCDSS for audit disallowances pursuant to any previous Contract between the parties.

D. Notice of Termination

In the event of any termination of this Contract under this Section, the party terminating the Contract must give notice of such termination in writing to the other party. Notice of termination must be sent by certified mail, return receipt, unless otherwise provided by law; provided, however, if terminated pursuant to sections A, D, and/or F, said termination must be effective upon receipt of such notice.

E. Termination for Failure to Meet Conditions for Contract Continuation

This Contract must be terminated effective any date that the Contractor fails to meet the specified condition for Contract continuation imposed as a result of monitoring, review, or audit findings.

F. Termination in Best Interest of the SCDSS and/or Client

The SCDSS has the right to terminate this Contract if it decides that termination is in the interest of the SCDSS and/or its clients.

G. Termination for Convenience

This contract award must be terminated at any time by SCDSS for convenience, such reason being within the sole discretion of SCDSS. SCDSS must give thirty (30) days' notice of termination to the Contractor in writing. The Contractor must terminate the contract for convenience upon 30 days written notification to SCDSS, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion of the contract to be terminated. However, if, in the case of a partial termination, SCDSS determines that the remaining portion of the contract will not accomplish the purposes for which the contract was made, SCDSS must terminate the contract in its entirety. This determination is within the sole discretion of SCDSS.

**ARTICLE VIII
APPEALS PROCEDURES**

In the event the Contractor believes itself aggrieved by actions of S.C. pursuant to terms of this contract, the Contractor must request resolution of the matter pursuant to S. C. Code Ann §§11-35-4230 (Supp.1999).

**ARTICLE IX
COVENANTS AND CONDITIONS**

In addition to all other stipulations, covenants, and conditions contained herein, the parties to this Contract agree to the following covenants and conditions:

A. Applicable Laws and Regulations

The Contractor agrees to comply with all applicable federal and state laws and regulations including constitutional provisions regarding due process and equal protection of the laws and including, but not limited to:

1. All applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970, as amended (U.S.C. 7401, et seq.).
2. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations issued pursuant thereto, 45 CFR Part 80.
3. Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) in regard to employees or applicants for employment.
4. Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs and activities receiving or benefiting from federal financial assistance, and regulations issued pursuant thereto (45 CFR Part 84, 1994).
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), which prohibits discrimination on the basis of age in programs or activities receiving or benefiting from federal financial assistance.
6. The Omnibus Budget Reconciliation Act of 1981, P.E. 97-35, which prohibits discrimination on the basis of sex and religion in programs and activities receiving or benefiting from federal financial assistance.
7. Americans with Disabilities Act, (42 U.S.C. Sections 12101 et seq.), and regulations issued pursuant thereto, 42 CFR Parts 35 and 36.
8. Drug Free Workplace Acts, S.C. Code Ann. §§44-107-10 et seq. (1976, as amended), and the Federal Drug Free Workplace Act of 1988 as set forth in 45 CFR Part 76, Subpart F (1994).
9. Health Insurance Portability and Accountability Act of 1996 (HIPAA) at 45 C.F.R., PART 164.502(e), 164.504(e), 164.532(d) and (e).

B. Safety Precautions. SCDSS assumes no responsibility with respect to accidents, illnesses, or other claims arising out of any work undertaken with the assistance of federal and/or state funds. The Contractor is expected to take necessary steps to insure or protect itself and its personnel. The Contractor must comply with all applicable local, state, and federal occupational and safety acts, rules, and regulations.

C. Titles. All titles used herein are for the purpose of clarification and reference only.

D. Attorney's Fees and Legal Services. No attorney-at-law must be engaged through the use of any funds provided by SCDSS pursuant to the terms of this contract. Further, with the exception of the attorney's fees awarded in accordance with S.C. Code Ann. §§15-77-30 (1976, as amended), SCDSS must under no circumstances become obligated to pay attorney's fees or the cost of legal action to the Contractor.

The Contractor must and will pay attorney fees to SCDSS as the court must adjudge reasonable in addition to the amount of judgment and costs.

- E. Restrictions on Lobbying. In accordance with 31 U.S.C. 1352, funds received through this contract must not be expended to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. This restriction is applicable to all subcontractors.
- F. Integration and Amendment. This Contract must be construed to be the complete integration of all understandings between the parties hereto. No prior or contemporaneous addition, deletion, or other amendment must have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto must have any force or effect, unless embodied in a written contract executed and approved by both parties or added as an attachment specifically authorized in this contract.
- G. Background Checks. For all employees, contractors, subcontractors, or persons who perform duties for SCDSS under this contract the Contractor, to include volunteers or any unpaid persons who could potentially have direct contact with children in care, contractor must perform background checks to include FBI fingerprint check, SLED check, state and national sex offender registry check, and a Central Registry check. These checks must be performed prior to an employee, contractor, subcontractor, volunteer, or person performing duties for SCDSS under this contract. No employee, contractor, subcontractor, volunteer, or person must perform work for SCDSS under this contract unless all required background checks are clear. A breach of this term is a material breach and must result in termination of the contract for cause, in addition to all other legal and equitable remedies available to the state.
- H. Non-Waiver of Breach and/or Rights. The parties agree that the execution and any performance of any provision of this contract, or the continued payment of Contractor by SCDSS, must in no way affect the right of SCDSS to enforce the provisions of this contract. Nor must the waiver by SCDSS of any breach of any provision hereof be taken or held to be waiver of any succeeding breach of such provision, or as a waiver of the provision itself. All rights or obligations are hereby preserved, protected, and reserved.
- I. Severability and Conformity with Law. The provisions of this contract and performance hereunder are subject to all laws, regulations, ordinances, and codes of the federal, state, and local governments. All terms of this contract must be construed in a manner consistent with the aforesaid; and should any of the terms hereof conflict with any of the aforesaid, then the terms must be deemed modified to conform therewith; and the remaining provisions of this contract must not be invalidated. The Contractor agrees to comply with all the aforesaid laws and regulations as must be promulgated during the term of this contract.
- J. Federal or State Law and Regulation. Reference to or attached copies of Federal or State regulations or law are believed to be the most current, but it is the Contractor's responsibility to obtain updates, amendments, or other changes of these.

- K. Political Activity. None of the funds, materials, property, or services provided directly or indirectly under this contract must be used in the performance of this contract for any partisan political activity, or to further the election or defeat of any candidate for public office or any activity in violation of the "Hatch Act".
- L. Reporting of Fraudulent Activity. If at any time during the term of this contract, the Contractor becomes aware of or has reason to believe by whatever means that, under this or any other program administered by SCDSS, a recipient of or applicant for services, an employee of the Contractor or SCDSS, and/or subcontractor or its employees, have improperly or fraudulently applied for or received benefits, monies, or services pursuant to this or any other contract, such information must be reported by the Contractor directly to SCDSS.
- M. Incorporation of Schedules/Appendices. All schedules or appendices attached to this contract are expressly made a part hereof and incorporated by reference. Whenever this contract sets a higher standard than contained in a schedule or attachment, the standard set in the body of the contract must prevail.
- N. Insurance. The Contractor agrees to obtain and keep in effect comprehensive insurance which must be required by law and prudent business practices for its operations.
- O. Disclaimer. Contractor understands and agrees that SCDSS disallows and disclaims all responsibility for any liability for losses, damage, claims, demands, or costs from third parties asserted against it as a result of operations performed by the Contractor herein in the performance of this agreement; and, the Contractor acknowledges and agrees that it is an independent Contractor and does not act as an agent, servant, or employee of SCDSS or the State of South Carolina in the performance of this contract.
- P. Hold Harmless. The Contractor must hold and save SCDSS, its officers, agents, and employees harmless from liability of any nature or kinds, including costs and expenses, for or on account of any suits initiated or injury or damages sustained by any persons or property resulting in whole or in part from the negligent or intentional acts or omissions of any employee, agent, or representative of the Contractor. This Provision must not apply to any S.C. State Agency, the Federal Government, or another state.
- Q. S.C Law Clause. Upon acceptance of the emergency contract, contractor must comply with the laws of South Carolina which require such person or entity to be authorized and/or licensed to do business in this State. Contractor agrees to subject itself to the jurisdiction and venue of Richland County, South Carolina, and processes of the courts of the State of South Carolina as to all matters and disputes arising or to arise under the contract and the performance thereof, including any questions as to the liability for taxes, licenses, or fees levied by the State.
- R. Procurement Codes. When applicable, contractor must comply with the terms and conditions of both federal and state procurement codes in the acquisition of equipment and supplies and in all subcontracts.

S. Security and Confidentiality of Sensitive Information

Contractor agrees to be fully responsible to SCDSS for the security of the storage, processing, compilation, and transmission of all personally identifying and other confidential client data supplied to it by SCDSS, and of all equipment, storage facilities, transmission facilities on or from which any such data is stored, processed, compiled, or transmitted.

1. Contractor agrees that it will not access, use, or disclose such data supplied by SCDSS beyond its limited authorization under this agreement or for any purpose outside the scope of this agreement.
1. Contractor agrees that it will protect such data in a secure environment and ensure that its computer site(s) and related infrastructure will have adequate physical security and that in situations such as remote terminals or other office work sites where all the requirements of a secure area with restricted access cannot be maintained, the equipment must receive the highest level of protection and must be consistent with Internal Revenue Service publication requirements on alternate work sites. Contractor agrees that it will not allow any such data supplied to it by SCDSS to be held on mobile, remote, or portable storage devices.
2. Contractor agrees that it will protect the confidentiality of such data in accordance with the requirements of all applicable state and federal laws, regulations, standards, and guidelines, as well as all applicable industry standards, including, but not limited to, Internal Revenue Service requirements, federal information processing standards, the federal Privacy Act, Payment Card Industry (PCI) data security standards, and functional and assurance requirements for the operating security features of its systems.
3. Contractor agrees that it will ensure that appropriate background checks are performed on each employee/agent/sub-contractor to whom it grants access to any such data; that it will ensure that an appropriate and effective authorization process for user access is maintained; that it will ensure that each of its employees and agents to whom data is disclosed is notified in writing of the confidentiality and security requirements of this agreement and of criminal and civil sanctions under applicable laws; and that it will notify SCDSS immediately in writing if the relationship ends between Contractor and any employee/agent/subcontractor to whom it granted access or who obtained access to any SCDSS data.
4. Contractor agrees that, in the event of any unauthorized disclosure or loss of such data supplied to it by SCDSS, it will immediately notify SCDSS of the extent of the breach of security, the reason therefore, the sources, the affected data, and mitigation actions. The parties agree that the actual harm to a third party caused by a security breach is difficult to estimate, and that a reasonable forecast of just compensation is for the Contractor to provide to such individual: (1) timely and adequate notice of the facts surrounding the compromise of information; (2) actual damages sustained by the individual as a result of the breach and any prescribed or ordered damages; and (3) two (2) years of credit monitoring services, at no cost to such individual.
5. Contractor agrees that, prior to disposal, all floppy disks, CDs, magnetic tape, hard drives (desktop and server), data DVDs, zip drives, and any other media used in containing sensitive data supplied to it by SCDSS, must be destroyed in compliance with federal and industry legal and standard operating procedures standards to sufficiently ensure that data is non-recoverable,

prior to disposal of any such media, equipment, data holders. All hardcopy records that contain sensitive data must be disposed of through a cross cut paper shredder or equivalent secure destruction process.

6. Contractor agrees that, prior to any disclosure of data or information supplied to it by SCDSS, regardless of instance or whether court-ordered, legally mandated, or otherwise, it will timely notify SCDSS in writing of its intent to disclose and secure the prior written permission of SCDSS before disclosing.
- T. Subcontracts, Employees and Non-Assignability. No services required to be provided under this contract must be provided to a recipient by anyone other than the contractor, an employee or a volunteer of the contractor. **Unless otherwise expressly authorized in writing, no sub-contracts for the provision of services must be entered into by the contractor.** Authorized subcontracts under this contract must be in writing and must be subject to the terms of the contract. The contractor must be solely responsible for the performance of any subcontracts. All subcontracts must be submitted to SCDSS for written prior approval before any reimbursement is made or services rendered. No assignment of this contract or any rights hereunder must be valid without written consent of SCDSS.
- U. Suspensions and Debarment. The Contractor certifies by its representative's signature to this Contract Agreement that neither the Contractor nor any of its principals are suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency. The Contractor agrees to and must inform SCDSS immediately if at any point it is suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency. If at any point the SCDSS and/or the State of South Carolina determines that the Contractor knowingly or in bad faith rendered an erroneous certification and/or that either the University/Contractor or any of its principals are suspended or debarred, then, in addition to other remedies available to the SCDSS, the SCDSS must terminate this Contract Agreement immediately and, upon such termination, the Contractor agrees to and must, within thirty (30) days, return to the SCDSS all funds paid to it under this Contract.
- "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).
- V. Civility. It is a material term to the State's acceptance of this emergency contract that the Contractor must engage in prompt and courteous written and oral communication, and must work to promote respect, civility, and courtesy due to all parties of this agreement, as well as those who assist them. Further, Contractor warrants it must ensure its employees, subcontractors, and representatives must maintain fairness, integrity, and civility in all written and oral communications.
- W. Media Response Protocol. If a Contractor receives a request from a member of the media, or from someone on behalf of the media, and that request is arising out of, or has any connection to, a child in SCDSS custody, the Contractor must incorporate the following into its response process:
1. Contractor must immediately notify the SCDSS Office of Communications and Public Affairs of the request;

- 2. Contractor must not release public statements affecting, or having any relation to, children who are currently in SCDSS custody, or who have been within SCDSS custody, prior to notice and approval for such statements by SCDSS;
 - 3. Contractor must send a proposed response to the SCDSS Office of Communications and Public Affairs (OCPA). Contractor agrees that SCDSS must have sole approval authority over any communication Contractor proposes to release.
- X. Copyrights, Trademarks and Service Marks. With respect to any pre-existing works contributed by a party for use in the Program, such party will retain all right, title or interest in and copyrights, trademarks and service marks in such work.

IN WITNESS WHEREOF, The SCDSS and the Contractor, by their authorized agents, have executed this contract as of the first day of August 2020.

SOUTH CAROLINA DEPARTMENT OF
SOCIAL SERVICES
"SCDSS"

SOUTH CAROLINA MENTOR
"CONTRACTOR"

BY: Susan Roben
Digitally signed by Susan Roben
 DN: cn=Susan Roben, o=SC
 Department of Social Services,
 ou=Financial Services,
 email=susan.robent@ds.ssc.gov, c=US
 Date: 2020.11.10 09:44:31 -05'00'

 Susan L. Roben
 Chief Financial Officer

BY: *Wendy Doherty, LSW, CAPS*

 Authorized Representative

DATE: 11/10/2020

DATE: 11-01-2020

**Certification Regarding Debarment, Suspension, Ineligibility
and Voluntary Exclusion- Lower Tier Covered Transactions**
(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- (b) where the prospective lower participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled **Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions** without modifications in all lower tier covered transactions and in all solicitations for lower tier covered transactions.



Authorized Signature

THE DRUG-FREE WORKPLACE ACT
S.C. Code Ann. §§44-107-10 through -90 (1990)

As provided by S.C. Code Ann. §44-107-30, no person (a partner, corporation organized or united for a business purpose, or a governmental agency) may receive a contract or grant "...for the procurement of any goods, construction, or services for a stated or estimated value of fifty thousand dollars or more..." from a state agency unless the person has certified to the agency that it will provide a drug-free workplace as set forth in the "Certification Statement for Person" set forth below.

S.C. Code Ann. §44-107-40 provides that no individual may receive a contract or grant "...for a stated or estimated value of fifty thousand dollars or more..." from a state agency unless the contract or grant includes the "Certification Statement for Individual" set forth below.

Please check the box beside the certification statement that applies to you and sign and date this form.

CERTIFICATION STATEMENT FOR PERSON

I hereby certify to the South Carolina Department of Social Services (SCDSS) that I will provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about:
 - a. the dangers of drug abuse in the workplace;
 - b. my policy of maintaining a drug-free workplace;
 - c. any available drug counseling, rehabilitative, and employee assistance programs; and
 - d. the penalties that may be imposed upon employees for drug violations;
3. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by item 1;
4. Notifying the employee in the statement required by item 1 that, as a condition of employment on the contract or grant, the employee will:
 - a. abide by the terms of the statement; and
 - b. notify me of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after the conviction;
5. Notifying SCDSS within ten days after receiving notice under item 4. b. from an employee or otherwise receiving actual notice of the conviction;
6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee convicted as required by Section 44-107-50; and
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of items 1, 2, 3, 4, 5 and 6.

I also agree that, in compliance with Section 44-107-50, I shall, within thirty days after receiving notice from an employee of a conviction pursuant to Title 44, Chapter 53, Article 3, Narcotics and Controlled Substances, of the South Carolina Code of Laws:

1. Take appropriate personnel action against the employee up to and including termination; or
2. Require the employee to participate satisfactorily in drug abuse assistance or rehabilitation program approved for the purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

CERTIFICATION STATEMENT FOR INDIVIDUAL

I hereby certify that I will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of this contract.

Provider Name Vicki J. Choa

DATE 11/01/2020

Authorized Signature Vicki J. Choa

EXHIBIT 6

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

EDEN ROGERS

and

BRANDY WELCH,

Plaintiffs,

vs.

CASE NO. 6:19-CV-01567-JD

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX AZAR, in his official capacity as Secretary of the UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; ADMINISTRATION FOR CHILDREN AND FAMILIES; LYNN JOHNSON, in her official capacity as Assistant Secretary of the ADMINISTRATION FOR CHILDREN AND FAMILIES; STEVEN WAGNER, in his official capacity as Principal Deputy Assistant Secretary of the ADMINISTRATION FOR CHILDREN AND FAMILIES; HENRY MCMASTER, in his official capacity as Governor of the STATE OF SOUTH CAROLINA; and MICHAEL LEACH, in his official capacity as State Director of the SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES,

Defendants.

30 (b) (6)

VIDEOTAPED VTC

DEPOSITION OF: SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES

BY: SUSAN ROBEN
(Appearing by VTC)

DATE: FEBRUARY 17, 2022

TIME: 9:00 a.m.

LOCATION: [REDACTED]

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: Susan M. Valsecchi, RPR, CRR
Certified Realtime Reporter
(Appearing by VTC)

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APPEARANCES OF COUNSEL VIA VTC:

ATTORNEYS FOR THE PLAINTIFFS

EDEN ROGERS and BRANDY WELCH:

CRAVATH SWAINE & MOORE

BY: KATHERINE DERINGER JANSON

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ATTORNEYS FOR THE DEFENDANTS

UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES; ALEX AZAR, in his
official capacity as Secretary of the
UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES; ADMINISTRATION FOR
CHILDREN AND FAMILIES:

UNITED STATES ATTORNEY'S OFFICE
SOUTH CAROLINA

BY: CHRISTIE NEWMAN

(Appearing by VTC)

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christie.newman@usdoj.gov

ALSO PRESENT VIA VTC:

Ashley Bowler, Videographer

(INDEX AT REAR OF TRANSCRIPT)

1 A. And I will clarify that to say that
2 this report is based on when the payments are made,
3 so there could be a timing issue here as well.

4 So our accounting system -- when we run
5 this data, our accounting system has no way to know
6 when the services were actually performed.

7 So take, for example, Lutheran Family
8 Services, while it could have been that they had
9 some families in fiscal year '20, maybe at the
10 later part, maybe April, May, June, but that those
11 payments weren't actually made until July or maybe
12 August of the next fiscal year.

13 Well, those payments are not going to
14 show up, then, until that next fiscal year. So our
15 accounting system is going to show them in fiscal
16 year '21. But if we dig into the data and pull --
17 drill down into each specific invoice, we'll see,
18 then -- possibly -- this is my -- I'm speculating
19 here -- but I have seen this on some of the
20 invoices -- that it's actually for a previous
21 fiscal year.

22 In our -- in the accounting system,
23 it's not based on service dates, it's based -- it
24 is literally based on this is when the invoice was
25 paid. And so it's not -- there could be timing

1 issues here as well. I just want to have -- I just
2 want to add that caveat.

3 Q. Okay. So -- so I can understand, so
4 there -- so if I'm a CPA, and I have, you know,
5 five families that I'm supporting that have
6 children placed with them and those children are
7 placed on, you know, day one, that's when I guess
8 we would -- that's when we would start sort of
9 counting, I suppose, for purposes of calculating
10 the number -- you know, the number of days for
11 which, you know, I'm entitled -- I being the
12 CPA -- the CPA is entitled to that admin rate,
13 right?

14 A. Uh-huh, correct.

15 Q. But what it sounds like you're
16 explaining is that, you know, the CPA doesn't get
17 that \$20 a day, or \$25 a day, or \$30 a day,
18 beginning on the first day the child is actually
19 placed, so there may be some lag time, processing
20 time, in terms of when the payment is actually made
21 to the -- from DSS to the CPA; is that correct?

22 A. Yeah, we don't pay the CPA daily. It's
23 a daily rate --

24 Q. I understand that, yeah.

25 A. But, yeah, we don't pay them daily. We

1 pay them on a -- we pay them monthly --

2 Q. Okay.

3 A. -- and there is a -- there is a delay,
4 so...

5 Q. Yep, okay, understood.

6 Yeah, you couldn't possibly pay
7 daily --

8 A. Yeah.

9 Q. -- that would be -- that would --
10 Okay. All right, so that's an
11 important -- an important caveat.

12 Okay. So looking down, then, at the
13 line for Miracle Hill Ministries, do you see
14 that --

15 A. I do.

16 Q. -- that line on the chart?

17 A. Yes.

18 Q. Okay. So Miracle Hill is a -- is a
19 nontherapeutic CPA; is that right?

20 A. Yes, I believe so.

21 Q. Okay. So I think what you just
22 testified to just a little while ago is that the
23 nontherapeutic CPAs didn't start to receive the
24 administrative fee -- that per-day, per-child
25 fee -- until halfway through fiscal year '19,

1 right?

2 A. Yes.

3 Q. So then what I'm -- what I'm trying to
4 understand, then, is this chart reflects that in
5 fiscal year '17, Miracle Hill received \$620,800 and
6 in fiscal year '18, Miracle Hill received \$592,080
7 in administrative fees. So I'm not understanding
8 what -- what those -- what those amounts are.

9 A. So Miracle Hill was an exception.
10 There was a decision made with a previous
11 administration, you know, way back in -- you know,
12 before this -- this chart started -- so prior to,
13 you know, July of 2016.

14 Um, and, again, I had -- I have gone
15 back, I have talked to Laura, I have tried to
16 figure out why we have tracked, so we've -- we've
17 tracked Miracle Hill's admin payments separately.
18 Miracle Hill is the only CPA that received, back at
19 that time, an admin fee of \$10 per day per child.

20 We've tried to go back to figure out
21 why that is and look at -- try to find
22 documentation, try to find reasoning, and we're
23 not -- we were not able to come up with -- we were
24 not able to find any reasonable explanation as to,
25 you know, why that was.

1 Again, it was a previous
2 administration, previous decisions that were made.
3 I have -- I have done research, I have asked other
4 people. Um, for some reason, though, we -- you
5 know, we were -- we had tracked Miracle Hill
6 separately, um, and so we are able to show the
7 amount of administrative fees that they have been
8 paid back to that time.

9 And so they -- they are the -- they
10 were the only ones that were receiving that
11 administrative fee.

12 And I will say that that \$188,000 that
13 shows in the current fiscal year is another one of
14 those -- those timing issues -- that because they
15 are no longer receiving an administrative fee; that
16 stopped. They're -- you know, they have said we
17 don't -- we don't want to receive an administrative
18 fee anymore, we're not going to accept the
19 administrative fee.

20 So that \$188,000 that you see in the
21 current fiscal year actually was paid in the
22 current fiscal year, but it was -- I looked up -- I
23 specifically looked up those invoices. It was for
24 the previous fiscal year. It was for services that
25 they -- you know, that were provided in June of

1 2021.

2 Q. Okay. Yeah, you anticipated what some
3 of my next questions --

4 A. I did.

5 Q. -- were going to be there, because --
6 and we'll get into this a little -- a little bit
7 more in detail later, but there was a point in the
8 middle of last year when Miracle Hill determined
9 that it was going to stop accepting the
10 administrative fee from DSS; is that right?

11 A. That's correct.

12 Q. And so but you're saying that -- and do
13 you know when -- do you know when -- what date that
14 decision was -- was effective as of?

15 A. It was effective as of -- they -- as of
16 June 30th, 2021, would be the ending, so then July
17 1st they were receiving -- July 1st, 2021 they
18 would receive no more administrative fee payments.

19 Q. Okay, so effective as of the start of
20 the 2022 fiscal year?

21 A. Correct.

22 Q. Okay. So the number here in this
23 chart, in the far right, or the
24 second-to-farthest-right column, about \$188,305,
25 you're explaining that that is -- those are

1 administrative fees that would have been paid for
2 the -- for the first -- services provided in the
3 first part -- in the second half of fiscal year
4 '21 -- but they just -- they just weren't paid,
5 because, like you said, there's sometimes a delay
6 in payments, that the money actually wasn't paid
7 out until -- until the fiscal year 2022.

8 A. Correct.

9 Q. Am I getting right?

10 A. Yes, that's correct.

11 Q. Okay. So going back to -- I guess to
12 the first -- the first two years, fiscal years '17
13 and '18, well, I guess for --

14 Yeah, for those -- for those first two
15 years, Miracle Hill is the only CPA on this list
16 for which administrative -- nontherapeutic CPA or
17 any CPA on this list -- for which administrative
18 fees were paid in those two years.

19 And you described to us that you've
20 looked into it, you're not sure why that is the
21 case, but, for whatever reason, that's the case and
22 those are the -- those are the numbers that are
23 reflected there.

24 As we move sort of into the later
25 years, in fiscal year '19, '20, and '21, just by

1 comparison, if you look at the figures that were
2 paid to Miracle Hill for administrative fees and
3 the figures that were paid to any of the
4 other -- the amounts that were paid to any of the
5 other CPAs in administrative fees in those years,
6 is it -- is it fair to say that Miracle Hill
7 received, by far, the largest amount of funding in
8 administrative fees during those years --

9 MR. COLEMAN: Object to the form.

10 BY MS. JANSON:

11 Q. -- compared to the other CPAs?

12 MR. COLEMAN: I apologize, Kate, I cut
13 off the last part of your question there, sorry.

14 MS. JANSON: No, that's okay.

15 Um, yeah, I was just -- think we got
16 it.

17 BY MS. JANSON:

18 Q. My question is, Is it fair to say that
19 Miracle Hill received, by far, the largest amount
20 of funding in administrative fees during the fiscal
21 years reflected in this chart?

22 MR. COLEMAN: Object to the form of the
23 question, but you can answer it.

24 THE WITNESS: Um, yes, according to the
25 chart, that is what is showing.

1 year 2019.

2 Is that right?

3 A. Um, prior to January '19.

4 Q. Prior to January of 2019, got it, thank
5 you. And so were there -- prior to January 2019,
6 there were nontherapeutic CPAs licensed by the
7 State of South Carolina that were providing foster
8 care services; is that right?

9 A. I believe so, but that would be a
10 question for Jackie or Dawn.

11 Q. Okay. You -- you can't tell me for
12 certainty that prior to January of 2019, there were
13 any nontherapeutic CPAs operating under license in
14 South Carolina?

15 A. So I don't do the licensing. I'm in
16 the fiscal side. We made -- I can tell you what
17 payments we made, but I am not certain at this time
18 which are therapeutic and which are nontherapeutic,
19 so I would need to verify that with Jackie, which
20 are therapeutic and which are nontherapeutic; and
21 then I would be able to tell, from the payments we
22 made, if we -- you know, if they were -- based on
23 the payments we made -- if they were therapeutic,
24 nontherapeutic, if they were licensed -- you know,
25 that we were making those payments, but --

1 Q. Okay.

2 A. -- based on this information right now,
3 I -- I can't with certainty tell -- answer that
4 question.

5 Q. Okay. So let's assume that there were
6 nontherapeutic CPAs that were licensed by the State
7 of South Carolina prior to January 2019 and that
8 they were performing, you know, this work, you
9 know, pursuant to their contracts of recruiting,
10 screening, supporting foster -- prospective foster
11 families and foster families after -- after
12 licensure.

13 Assuming that there were nontherapeutic
14 CPAs doing that work prior to January 2019, we've
15 established that they were not receiving
16 administrative fees prior to January 2019 --

17 A. Correct.

18 Q. -- so would they have been receiving
19 any payments from the State of South Carolina for
20 the work that they were doing?

21 A. In terms of the work -- I'm trying
22 to -- I'm trying to understand.

23 Are we getting back to the question of,
24 like, the different contracts, transportation
25 contracts again, or are you talking strictly on the

1 work with -- specifically the work with the foster
2 families in --

3 Q. Yeah, the --

4 A. Yeah.

5 Q. -- specifically the work with the
6 foster families.

7 What I'm trying to get at is we've
8 established that they were not getting this
9 administrative fee, this per-child-per-day payment
10 for children placed with the families that those
11 CPAs supported prior to January 2019?

12 A. Okay.

13 Q. So my question is, you know, were
14 they -- were they getting paid by the State in some
15 other way to do this work or were they doing it for
16 free?

17 A. So they were getting -- the regular
18 nontherapeutic were not getting paid an
19 administrative fee prior to that time.

20 Q. Were they getting paid anything?
21 Another type of fee? Was there a different payment
22 structure in place at that time apart from
23 the -- that's different from the administrative
24 fee? I'm just trying to understand, if they're not
25 getting the admin fee, and they're doing all of

1 this work to bring in the families, screen them,
2 help them get licensed, support them, train them,
3 you know, how are they getting paid for that? Or
4 are they doing it for free?

5 A. So we don't -- we don't know. We were
6 paying -- um, well, let me back up. There's a lot
7 of dates and I'm trying to keep them all straight
8 in my head.

9 So, yeah, we were paying the
10 foster -- the regular foster homes directly, so
11 that would be correct, they were -- they were not
12 receiving any fee. They were not receiving an
13 administrative fee, and they were -- I
14 would -- that would be true, that they were doing
15 it for no -- for no -- for no payment.

16 Q. They were doing it for free, um, okay.

17 And that is, of course, Miracle Hill
18 being the exception, as we've discussed --

19 A. Correct.

20 Q. -- because Miracle Hill was receiving
21 substantial amounts in administrative fees during
22 the years prior to January 2019 that are reflected
23 on this chart, right?

24 A. Yes.

25 Q. Okay. So if we can look at the

1 two -- the two columns on the chart for fiscal year
2 2021 and the first half of fiscal year 2022.

3 If you -- is it fair to say that if a
4 CPA is not included on this chart, that would mean
5 that they received no administrative fees in fiscal
6 year 2021 or the first portion of fiscal year 2022;
7 is that right?

8 A. That's correct.

9 Q. And if they received no administrative
10 fees, that would mean that they had no children
11 placed with foster families that those CPAs
12 supported; is that right?

13 MR. COLEMAN: Object to the form of the
14 question, but you can answer.

15 THE WITNESS: Yes, that would
16 be -- that would be my assumption, yes.

17 BY MS. JANSON:

18 Q. Okay. There isn't any reason that a
19 foster family -- or a CPA -- would have children
20 placed with families it supported during those
21 years but not be receiving the administrative rate,
22 right?

23 A. Not to my knowledge, no.

24 Q. And you're speaking as the
25 representative for DSS on this topic. So when you

1 say "not to my knowledge," you're really saying not
2 to DSS's knowledge, right?

3 A. Correct, yes.

4 Q. Okay, uh, so -- all right, looking back
5 to the last of the chart, under each of
6 these -- under each of the provider names, the CPA
7 names listed, and there's two rows. There's state
8 general funds and federal funds.

9 Um, and we talked a little -- we talked
10 some about this -- about this earlier -- but can
11 you describe to me what -- what state general funds
12 means?

13 A. Uh, well, so that -- I mean, I'm not
14 sure how to describe it in really any other way.
15 It's really our state appropriations, the state
16 appropriations from the General Assembly.

17 Q. Okay.

18 A. And, I'm sorry, I do need to back up; I
19 apologize. But there -- there are -- I misspoke
20 just a minute ago. I believe that there are a few
21 CPAs that did not sign -- we -- we issued a new
22 contract effective January 1st of 2021.

23 When the -- when the providers started
24 receiving the new administrative rate of \$20, \$25
25 and \$30 a day, there were, I believe, a few -- and

1 between those two numbers and what we know about
2 and what we've discussed about what the two charts
3 reflect, that there was -- there's a significant
4 amount of funding that Miracle Hill was receiving
5 separate and apart from the administrative fees,
6 right?

7 A. Um, yes, I know at some point -- at one
8 point -- and I don't know when they stopped -- but
9 they were also running a group home. They also had
10 a group home --

11 Q. Okay.

12 A. -- obviously apart from their -- their
13 CPA provider.

14 Um, so, but I believe that that -- and,
15 again, I would have to double check -- but I'm
16 pretty sure that they no longer run a group home,
17 but I -- but I don't have that date of when that
18 stopped. It may have been sometime in 2020.

19 Q. Okay. So some of that difference
20 between those two numbers might be accounted for by
21 the fact that they were running a group home at
22 some point and they were receiving payments from
23 that?

24 A. That could be, uh-huh.

25 Q. Is it possible that there are other

1 amounts of funding that Miracle Hill was receiving?
2 Maybe they had -- and I know you don't have the
3 specifics on this -- but maybe they had a
4 transportation contract, like we talked about, or I
5 think we said that -- yeah, maybe they had a
6 transportation contract, for example.

7 MR. COLEMAN: Object to the form of the
8 question to the extent it calls for speculation,
9 but you can answer.

10 THE WITNESS: Yeah, again, I would be
11 speculating on that; but, to my knowledge, Miracle
12 Hill has not had a transportation contract with
13 DSS.

14 BY MS. JANSON:

15 Q. Okay. Bad example.

16 What I'm trying to understand is simply
17 when -- when Miracle Hill announced that it was
18 going to stop accepting government funding, we know
19 that that means it's no longer accepting the
20 administrative fee; but does that also mean it's no
21 longer accepting any funding whatsoever from DSS
22 related in any way to foster care?

23 A. I would be --

24 MR. COLEMAN: Object to the form.

25 THE WITNESS: I would be speculating on

1 what they mean by what they're saying in that
2 paragraph.

3 BY MS. JANSON:

4 Q. Okay, okay, that's fair enough.

5 And so when we were looking at -- when
6 we were looking at Tab 2 earlier -- and that's the
7 chart of the Child Placing Agency Administrative
8 Fees -- we looked at the fact that there's a
9 number, a \$188,000 number, included there for the
10 first half of fiscal year '22 -- '20 -- yeah,
11 fiscal year 2022 -- and we -- we discussed the fact
12 that even though those payments were made after the
13 effective date of Miracle Hill's announcements that
14 it wasn't going to accept anymore government
15 funding, it's really just a timing issue there and
16 that those were administrative fees being paid for
17 children placed in the later months, for instance,
18 the later months of fiscal year 2021.

19 Do you remember that discussion?

20 A. Yes.

21 Q. And so, uh, can you tell us with
22 certainty that all of that -- all of that \$188,000
23 is, in fact, accounted for by that explanation and
24 that Miracle Hill, in fact, has not received any
25 administrative fees for services provided in fiscal

1 year 2022 after its announcement?

2 A. Yes, I have verified that.

3 Q. Okay, great. So you've verified that
4 they're not getting any administrative rates
5 after -- they have not received any administrative
6 rates for services provided after June 30th, 2021.

7 Do you know whether Miracle Hill
8 is -- has gotten any funding whatsoever from DSS in
9 the period after June 30th, 2021?

10 A. I can't answer that right now.

11 Q. Okay.

12 A. I would have to check.

13 Q. Okay. Is that something that would
14 be -- would be knowable if you had -- if you had
15 time to check?

16 A. Um, I mean, it's something that we
17 certainly -- that somebody could certainly look
18 into, yes.

19 Q. Okay. Do you know whether Miracle Hill
20 is still receiving the -- that board payment, the
21 maintenance payment, from DSS to pass along to the
22 families that it worked with that have children
23 placed with them?

24 A. So I believe that we are paying the
25 Miracle Hill CPA homes directly. Again, that's

1 another nuance. I -- I may not have mentioned that
2 earlier, but we are paying those homes directly
3 under Miracle Hill.

4 So we don't pay that to Miracle Hill
5 and then expect them to pay, to pass it on. We pay
6 those homes, directly to the homes.

7 Q. Has it always worked that way?

8 A. I believe it has, yes.

9 Q. Okay. So that was not a -- that was
10 not a change that was made as a result of Miracle
11 Hill's decision last year to --

12 A. No.

13 Q. -- stop accepting funds?

14 A. No.

15 Q. Okay. How did Miracle Hill notify DSS
16 of its decision to stop accepting government
17 funding for its foster care program effective July
18 1st, 2021?

19 A. That, I'm not sure of. I believe --
20 I'm not sure. That would be something that Dawn
21 Barton and/or Jackie Lowe would -- would have the
22 answer to.

23 MS. JANSON: Serena, let's look at Tab
24 9, if we can.

25 (EXHIBIT 5, State of South Carolina

1 Change Order 5; Bates 10545-G0250, was marked for
2 identification.)

3 MS. JANSON: Let me know when you have
4 that up.

5 MR. COLEMAN: Okay, we've got it.

6 MS. JANSON: Okay.

7 BY MS. JANSON:

8 Q. So we are up to Exhibit 5, I believe.
9 So let's mark as Exhibit 5 a document that's
10 entitled State of South Carolina Change Order
11 Number 5, and it's Bates stamped 10545-G0250 to
12 251.

13 Have you seen this document before,
14 Ms. Roben?

15 A. Yes.

16 Q. I see that you signed it at the bottom,
17 or you digitally signed it?

18 A. Correct.

19 Q. Can you describe for me what this is?

20 A. Um, so this is -- this is what we call
21 one of our change orders. And this was sent out
22 to -- well, all of our nontherapeutic foster
23 families -- or not our foster families, our CPAs.

24 And this is basically we had a -- we
25 had a change in our monthly rate, or the -- well,

1 Roben?

2 A. I have.

3 Q. And can you explain to me what this is?

4 A. Let's see. All right. Sorry, I've got
5 to get back to the top one.

6 Q. Okay.

7 A. It might help if I do this with my
8 right hand and not my left hand.

9 So this is -- this looks like this is
10 our emergency -- one of our emergency contracts
11 for, um -- between South Carolina DSS and South
12 Carolina Mentor, um, for them to provide -- as a
13 CPA for nontherapeutic services.

14 Q. Okay. And what does it mean -- what
15 does it mean that it's an emergency contract?

16 A. So, again, I am not the procurement
17 expert, and so I am -- I am probably not the best
18 one to answer this. I'm trying to think of
19 the -- so we issue emergency contracts
20 when -- basically when there is -- there is
21 not -- when the health and wellbeing of the
22 children of South Carolina are, you know, in harms
23 way, basically.

24 So if we were -- if we were -- if we
25 did not issue this contract, then we would not be

1 able to, um, have a contract with South Carolina
2 Mentor, they would not be able to take children,
3 or, you know, become a -- we would not be able to
4 pay them, they would not be able to basically start
5 taking children under their -- under the CPA
6 provisions, um, and then we would
7 have -- potentially we would have children that
8 would not be able to find a foster home.

9 And that, obviously, is not in the best
10 interest -- we don't want children -- I mean, we
11 know that children are best suited in loving foster
12 families, not necessarily in congregate care
13 facilities, or in other facilities. We want them
14 in a stable environment. So that's -- that's
15 really what we mean by an emergency contract. So
16 there's -- we are -- we are working on a -- on a
17 procurement, but regular procurements take a long
18 time, sometimes a year and a half, and so until
19 that gets done, we really -- I don't want to say we
20 don't have a choice, but we really have -- this is
21 the way to get this done in a quick manner for
22 something that really is for the best interest and
23 the health and well being of the children in South
24 Carolina's care and custody.

25 Q. Okay, that's helpful; thank you.

1 So I picked, just an example, an
2 example of a contract between DSS, and, you know,
3 one of the nontherapeutic CPAs here, South Carolina
4 Mentor, just so we can look at some of the
5 provisions in here.

6 But does DSS enter into the same
7 emergency contract, or an equivalent emergency
8 contract, with all of the nontherapeutic CPAs that
9 are licensed?

10 A. At this point, yes, until we're able to
11 move forward with a full solicitation RFP process,
12 uh-huh.

13 Q. If we look at Article I here about
14 halfway through the first page, it says Contract
15 Period and it says, The emergency contract must
16 take effect as of August 1, 2020 and must continue
17 in full force and effect through December 31, 2022
18 [sic].

19 So that's the -- that's the time period
20 of this; is that right?

21 A. December 31st, 2020. I think you said
22 2022.

23 Q. I said it wrong again. Thank you for
24 catching my error. Yes, December 31st, 2020.

25 Okay. And then if we go -- if we flip

1 ahead to Page 5 of the document itself, there's a
2 heading there, B, Limit on Total Reimbursement.

3 Do you see that?

4 A. I do.

5 Q. And I'm just going to read that. It
6 says, SCDS -- SCDSS -- will reimburse the licensed
7 regular child placing agency under this emergency
8 contract a monthly rate of \$300 per child, or \$10
9 per child per day if less than 30 days in a given
10 month.

11 And so that's a reference to the
12 administrative rate that we've been discuss, right?

13 A. Correct.

14 Q. And so at the time of this emergency
15 correct, which was August 1 through December 31,
16 2020, the rate was \$30 per month per child, or
17 \$10 -- I'm sorry -- \$300 per month per child, or
18 \$10 per child if less than 30 days in a given
19 month; is that right?

20 A. That's correct.

21 Q. And so at this point, there wasn't --
22 there wasn't a distinction between the ages of the
23 children, or there were not different -- different
24 rates provided for different -- different brackets
25 of ages --

1 A. No.

2 Q. -- like we discussed earlier?

3 A. No, no, that started on
4 January -- January 1st of 2021.

5 Q. Okay. And underneath the part I just
6 read it says -- in bold there it says, Total funds,
7 \$150,000. What does that indicate?

8 A. So with each contract, we have to issue
9 a dollar amount on -- on the contract, on the
10 purchase order, there has to be a dollar amount.

11 And so this was our -- this was the
12 estimate given to this -- this particular contract.
13 That doesn't mean that they're absolutely limited
14 and then cut off at that point in time. We can
15 always increase that dollar amount if -- if need
16 be, but there has to be a -- there has to be a
17 dollar amount on each contract. And so it's -- on
18 contracts like this where it's -- it's really just
19 based on the number of children. And we're not
20 going to cut that off, obviously. If they're
21 placing more children, then we're going to increase
22 that dollar amount. But they won't necessarily --
23 they may not use that total \$150,000; it may be
24 less. So it's somewhat arbitrary for these types
25 of contracts.

1 nontherapeutic CPAs, right?

2 A. Yes.

3 Q. And if you look at the columns for
4 fiscal year '17 and fiscal year '18, you'll note
5 that all of those -- that for every CPA on this
6 list, apart from Miracle Hill, for every other CPA,
7 there are no amounts listed as administrative fees
8 having been paid in fiscal year '17 or '18,
9 right --

10 A. Correct.

11 Q. -- except for Miracle Hill, right?

12 A. Correct.

13 Q. So my question is, for the therapeutic
14 CPAs on this list, does that mean that they were
15 also not receiving any administrative fee in fiscal
16 year '17 or '18?

17 A. So I believe I talked about this
18 earlier. The therapeutic CPA providers were being
19 paid \$10 a day per child if they had a
20 nontherapeutic child placed in their therapeutic
21 home, but it was not -- it was not called or
22 separated out as an administrative -- as a separate
23 administrative fee, it was in addition to their
24 regular board payment, so it was added on as part
25 of their board payment. So we cannot separate that

1 out. We don't have any way of separating that out
2 as an administrative fee, so we can't -- it's not
3 going to be -- we're not able to pull that amount
4 into this report. So we don't have any way of
5 knowing what that separate \$10-per-day/per-child
6 fee is because it was added onto their maintenance
7 payment.

8 Q. Okay, understood. So that's -- that's
9 an accounting sort of record -- recordkeeping issue
10 that leads to the blanks here for -- for the
11 nontherapeutic CPAs, right?

12 A. I don't know that I would say it's an
13 accounting issue. It really was not considered --
14 back in that time, '17 and '18, it was not
15 considered, really, an administrative -- it wasn't
16 called an administrative fee. It was a -- it was a
17 payment that was added on to their -- as part of
18 their -- their maintenance payment. And, again,
19 I'm speculating, because that was a long time ago.

20 Q. Yes.

21 A. But from my talking to other staff and
22 from my research, it was -- it was a fee that was
23 added onto their maintenance fee -- their
24 maintenance payment, not their maintenance fee.

25 Q. Okay. And that \$10, was that added on

1 just for -- I think you had said earlier that it
2 was added on in the case where there was a
3 nontherapeutic placement with a therapeutic
4 foster -- foster home -- is that right?

5 A. With a therapeutic foster child, a
6 non -- a thera -- so a therapeutic -- a therapeutic
7 home that had a nontherapeutic child in that home.

8 Q. Okay. And so -- and so was there any
9 admin rate or extra amount on top of the board
10 payment that was being paid for therapeutic foster
11 placements in those homes, or was it just for a
12 nontherapeutic foster placement within a
13 therapeutic foster home, if that makes sense?

14 A. I believe it does. I -- I can't answer
15 that. I would need to go back and do some more
16 research on that -- on that one.

17 Q. Okay. And are you -- are you
18 able -- you know, we -- I keep -- I keep going back
19 to this question of no administrative fee being
20 paid to nontherapeutic CPAs prior to 2019.

21 Do you know with certainty that those
22 nontherapeutic foster -- or those nontherapeutic
23 CPAs were, in fact, providing their foster care
24 services for free prior to January 1st of 2019?

25 A. Based on the information that I have

1 gathered and the research that I have done, that is
2 the conclusion that I have come to.

3 Q. So you don't know for sure?

4 A. I mean, I don't know where -- I
5 mean -- I'm -- well --

6 Effective January -- what I know is
7 that effective January '19 is when the regular CPA
8 providers began to receive the \$10 per day per
9 child. They did not receive it before then.

10 Q. But you don't know for sure, or you
11 can't tell me with certainty right now whether
12 there may have been some other -- or whether there
13 was some other funding mechanism whereby those
14 nontherapeutic CPAs were being paid for their
15 foster care services prior to that January 2019
16 initiation of the admin fee, right?

17 A. There wouldn't have been any other
18 funding mechanism.

19 Q. There would not have been, or there was
20 not?

21 A. There wouldn't -- there was not any
22 other funding mechanism. We were not paying them
23 any other -- any other way.

24 Q. So they were providing those foster
25 care services -- recruiting, screening,

1 supporting/training prospective foster families and
2 families after they received licensure from DSS --
3 they were doing all of that work for free?

4 MR. COLEMAN: Object to the form of the
5 question to the extent that "for free" is a little
6 bit ambiguous, but you can answer.

7 THE WITNESS: I am saying that,
8 effective January of 2019, is when the regular
9 nontherapeutic CPA providers began to receive the
10 \$10-per-child/per-day administrative fee. They did
11 not receive it before then.

12 BY MS. JANSON:

13 Q. But they were -- but they were -- at
14 least some of them -- were working as licensed CPAs
15 and providing those foster care services before
16 then, right?

17 A. That is my understanding, yes.

18 Q. Okay. And so they -- and so then they
19 were -- they must have been doing all of those --
20 providing all of those service and all of that work
21 without receiving any government funding from DSS?

22 A. Yes.

23 Q. Why would they do that? How would they
24 pay -- how would those CPAs pay their employees,
25 for instance?

1 MR. COLEMAN: Object to the form of the
2 question on the basis that it calls for
3 speculation. But if you know the answer, you can
4 answer it.

5 THE WITNESS: I can't answer that
6 question.

7 BY MS. JANSON:

8 Q. With regard to Miracle Hill, I think
9 you testified earlier that the Miracle Hill -- the
10 foster families that are supported by Miracle Hill
11 have always gotten their -- have their board
12 payments paid directly by DSS; is that right?

13 A. Yes.

14 Q. And that's not the case for other
15 nontherapeutic CPAs, right?

16 MR. COLEMAN: Object to the form of the
17 question to the extent it misstates prior
18 testimony, but you can answer.

19 THE WITNESS: Sorry. Can you repeat
20 that question?

21 BY MS. JANSON:

22 Q. Sure.

23 I think you testified earlier that at
24 some point there was a change by which the board
25 payment that goes to the foster families was paid

1 from DSS to the CPA and then passed on to the
2 family, right?

3 A. Yeah, so the -- DSS paid the regular
4 CPA homes, or the nontherapeutic homes, directly
5 through December of 2020.

6 And then starting on January 1st, 2021,
7 DSS started paying the CPA providers directly for
8 those homes, and they passed it on to the homes.

9 Q. But not for Miracle Hill, right?

10 A. Yes, with that exception.

11 Q. Why -- why was it that that was handled
12 differently for Miracle Hill than for the other
13 nontherapeutic CPAs?

14 A. I can't answer that. I'm not sure.

15 Q. We talked a little bit earlier about
16 how you had -- how you had learned of Miracle
17 Hill's decision to stop funding -- or to stop
18 accepting government funding -- and I believe you
19 said that you had learned from Dawn Barton; is that
20 right?

21 A. Yes.

22 Q. What exactly did Dawn tell you in that
23 conversation?

24 A. What exactly did she say? I don't
25 remember. It was quite a while ago.

EXHIBIT 7

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION
EDEN ROGERS AND BRANDY WELCH,
Plaintiffs,

vs. C/A No. 6:19-cv-01567-JD

UNITED STATES DEPARTMENT OF HEALTH &
HUMAN SERVICES; XAVIER BECERA, IN HIS
OFFICIAL CAPACITY AS SECRETARY OF THE
UNITED STATES DEPARTMENT OF HEALTH &
HUMAN SERVICES; ADMINISTRATION FOR
CHILDREN AND FAMILIES; JOOYEUN CHANG, IN
HER OFFICIAL CAPACITY AS THE SENIOR
OFFICIAL PERFORMING THE DUTIES OF THE
ASSISTANT SECRETARY OF THE
ADMINISTRATION FOR CHILDREN AND
FAMILIES; JOOYEUN CHANG, IN HER OFFICIAL
CAPACITY AS PRINCIPAL
DEPUTY ASSISTANT SECRETARY OF THE
ADMINISTRATION FOR CHILDREN AND
FAMILIES; HENRY MCMASTER, IN HIS
OFFICIAL CAPACITY AS GOVERNOR OF THE
STATE OF SOUTH CAROLINA; AND MICHAEL
LEACH, IN HIS OFFICIAL CAPACITY AS STATE
DIRECTOR OF THE SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES,
Defendants.

VTC 30(b)(6) SC DSS, Through its agent:
DEPOSITION OF: DAWN BARTON

DATE: December 17, 2021
TIME: 9:33 a.m.
LOCATION: Zoom - Columbia, SC

TAKEN BY: Counsel for the Plaintiffs
REPORTED BY: Roxanne Easterwood, RPR
VIDEOGRAPHER: Roosevelt Hamilton

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ATTORNEYS FOR HENRY MCMASTER, IN HIS
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(INDEX AT REAR OF TRANSCRIPT)

1 setting, and -- and they need a level of treatment
2 that a foster home, perhaps, could not offer them
3 in order to stabilize them, so...

4 But, yes, to answer your question
5 precisely, we -- we do lack enough foster homes in
6 the state to be able to place young people in.

7 Q. In- -- including young people who
8 would be -- who would -- who would do well with a
9 foster care placement?

10 A. Yes. I'd say those -- the -- the --
11 the Group Care 1 kiddos, they are -- I mean,
12 they're all -- they don't have these exceptional
13 needs like your Group Care 3, and so many of those
14 young -- those kids who you see in Group Care 1
15 could easily be stepped down into a -- a foster
16 home if there was availability.

17 Q. Are there children in Region 1 who are
18 currently eligible for adoption but for whom
19 adoptive placements have not yet been identified?

20 A. Yes.

21 Q. How many children are in that
22 category?

23 A. Again, I don't have that number
24 precisely, but we have that data that we can
25 provide for you.

1 Q. Great.

2 A. I can tell you that we have around 170
3 children legally free and waiting with no
4 resources currently in the state, but I don't know
5 what that equates for just the Upstate.

6 Q. Got it. Okay. And do you know -- do
7 you have a sense of how that -- how that data has
8 changed since 2018?

9 A. I don't, but we have -- yeah, we
10 could -- yeah, we could get you that comparative
11 data.

12 Q. Perfect. Great. Is DSS the only
13 state agency that handles foster care in South
14 Carolina?

15 A. Can you repeat that? I'm sorry.

16 Q. Oh, sure. I said, is DSS the only
17 state agency that handles foster care -- foster
18 care in South Carolina?

19 A. Yes.

20 Q. And what was DSS's budget for the past
21 year?

22 A. I don't know that information.

23 Q. Do you have a sense of what percentage
24 of DSS's budget is devoted to foster care?

25 A. I do not.

1 Q. Is that -- I'm sure that's something
2 that DSS has.

3 A. Yeah, I would -- I would say that --
4 that either Susan Roben or Dawn Grant could
5 provide that information.

6 Q. Great. Thank you. And does DSS
7 license potential foster parents?

8 A. Yes.

9 Q. Is DSS the only entity that can
10 license foster parents in South Carolina?

11 A. Yes.

12 Q. Can potential foster parents apply to
13 become foster parents directly through DSS?

14 A. Yes.

15 Q. And you mentioned this earlier, but
16 what is kinship care?

17 A. So kinship care is -- is the agency's
18 effort to place children and youth that can't
19 remain with their -- in their family homes, place
20 them with people who they're already connected to
21 and know, and that could look like -- we define
22 kinship care as relations through blood, marriage,
23 or adoption, but we -- we ex- -- we extend that in
24 South Carolina to also consider fictive kin
25 underneath the kinship umbrella.

1 So those could be -- those could be
2 close friends, coaches, teachers, people children
3 are connected to in their communities that may not
4 be related to them by blood, marriage, or
5 adoption.

6 Q. And at some point was there a change
7 made in DSS's policies such that it only handled
8 -- now handles applications for kinship care?

9 A. Yes.

10 Q. And when did that change take place?

11 A. Last July. So July of 2020.

12 Q. Okay. And before July 2020, did DSS
13 state agency work with both kinship and
14 non-kinship prospective foster parents?

15 A. Yes.

16 Q. And so under this change, does this
17 mean that potential foster parents who do not
18 qualify as kin under the definition you provided a
19 moment ago no longer have the option of applying
20 directly through DSS to become licensed?

21 A. Can you repeat that question again?

22 Q. Sure. Let me try -- let me see if I
23 can just read it back.

24 So under the change of policy, does it
25 mean that potential foster parents who are not

1 kin, under- -- understanding it's a broader
2 definition of kin, based on what DSS considers
3 kin, can parents who are not kin -- potential
4 foster parents who are not kin no longer apply
5 directly through DSS to become licensed?

6 A. So this was a -- this was a practice
7 change and not a policy change. Let me clarify
8 that. This was something that we decided to -- we
9 needed to build some capacity to be able to really
10 intensify our search and engagement and
11 recruitment of kinship families. And so we
12 transitioned all of that work to our child-placing
13 agencies.

14 And so with that being said, we -- we
15 wouldn't deny somebody the ability to come --
16 to -- to still come, and if they didn't want to
17 work with any of our CPAs today, they -- we would
18 still support them through the licensure process.
19 They could still -- they could still come through
20 DSS if for some reason they did not want to work
21 with one of the child-placing agencies. So we
22 wouldn't deny anybody that -- that ability.

23 Q. Was the reason for the change in
24 practice because DSS didn't have the capacity to
25 handle all of these applications itself; it needed

1 to offload some of this work onto the CPAs?

2 A. The change of practice was so that we
3 could really intensify our focus and efforts on
4 kinship care.

5 Q. But -- but just so I understand, the
6 idea being that you couldn't do both; you couldn't
7 focus your efforts on kinship care and also handle
8 all of these non-kinship applications?

9 A. Yes. It was a way for us to be able
10 to have the capacity to -- to do a targeted focus
11 on recruiting and licensing and engaging our
12 kinship opportunities for our kids, and it also
13 was a way to really try to build our placement
14 array, frankly, because if you -- if you're just
15 focused on recruiting non-kin families, A, kids do
16 better when they're with people that they're
17 connected to and they already know. It's less
18 traumatic. There's so many benefits to kinship
19 care; and B, if you have kinship and non-kin
20 families that you are able to place kids with,
21 that just expands your family-like settings for --
22 for kids.

23 Q. Right. But assuming that -- that
24 people who previously were able to work with DSS
25 are now able to work with CPAs; is that right?

1 A. I don't understand the question.

2 Q. Well, your answer about expanding the
3 array assumes that the people who previously were
4 able to work with DSS can now work with private
5 CPAs; is that right?

6 A. They can work with private. They've
7 always been able to work with -- with private
8 CPAs. That's always been an -- an option. We
9 just really, we just shifted a large portion of
10 the work through our central intake system through
11 Heartfelt Calling.

12 That -- that's the centralized place
13 that all of the applications and intakes funnel
14 through. We contract with -- with them to -- to
15 do that piece of the work for us, and so now that
16 families were just given more choices other than
17 DSS.

18 Q. So -- so Heartfelt Calling is a
19 central place -- so -- so if I'm a potential
20 foster parent, I'm not kinship, I'm not kin to any
21 potential child, I would go to Heartfelt Calling
22 to apply to become a foster parent?

23 A. That -- you can go -- that -- that's
24 where most people go because it's -- it's sort of
25 the centralized place that is designated to do

1 that. They could go directly to a CPA. So I
2 think it happens both ways.

3 Q. Do you have a sense -- you -- you said
4 most people do Heartfelt Calling. Is that
5 something that DSS tracks?

6 A. Yes.

7 Q. Okay. And do you have a sense of --
8 of the breakdown and how many people go through
9 Heartfelt Calling versus working directly with a
10 private CPA?

11 A. I don't -- I don't have -- I don't
12 know if I have the private CPA data, like -- well,
13 I shouldn't say I.

14 I think we could get the C- -- the
15 private CPA data. Heartfelt Calling tracks all of
16 the calls and applicants that they get through --
17 through our centralized line.

18 Q. And when you say we, DSS, could get
19 the private CPA data, does that mean that DSS has
20 that data or that DSS could ask for that data?

21 A. I'm not sure if that's something we
22 track through the contracts. If that's -- you
23 know, they have reporting requirements through the
24 contracts. So I don't know if that's the natural
25 part of what they report, or if we would have to

1 actually ask them for it.

2 Q. Has DSS ever asked private CPAs how
3 many people are applying through them to become
4 foster care parents?

5 A. Yes.

6 Q. When does it ask that question?

7 A. We -- I know we started tracking this
8 somewhat. We have to report through our annual
9 progress and services reporting for the federal
10 government, and so, you know, that's some of the
11 information that -- that I believe we supply for
12 that -- those reporting purp- -- reporting
13 purposes annually. So I do think that -- if
14 that's data that you -- you would be interested
15 in, I do think that's something that we could get
16 for you.

17 Q. Fantastic. Okay. And so just -- just
18 to make sure I'm clear about what it is, it would
19 be data that would show how many people are
20 applying directly through private CPAs to become
21 foster parents, you -- you think that would be
22 data you would have?

23 A. Yes. I can def- -- I -- I can most
24 definitely say that Heartfelt Calling has been
25 tracking that since -- at least since July, since

1 we started transitioning that work over to the
2 child-placing agencies. They have a breakdown
3 of -- of what that is.

4 Q. Okay. And -- and then, hopefully,
5 there would also be a breakdown for the private C-
6 -- for the direct channel in --

7 A. Yes.

8 Q. -- the Heartfelt Calling -- okay.
9 Terrific.

10 MS. SCHINDEL: So, Miles, I may not
11 call this out every time, but I will -- we will
12 make sure to gather all of this up and make sure
13 that we're following up with you afterwards.

14 MR. COLEMAN: Yes. That's on -- I
15 think this one, too, we can -- we can figure it
16 out, you know, next week. I think we may -- if
17 I'm understanding what you're looking for, you may
18 already have that data from Diana's deposition
19 yesterday, but we -- we can -- we can figure that
20 out Monday or something like that.

21 MS. SCHINDEL: Okay. Great. Thank you.

22 BY MS. SCHINDEL:

23 Q. And if -- if someone applied to work
24 directly with a CPA and were turned away by that
25 CPA for whatever reason, would DSS learn about

1 that?

2 A. The only way we would learn about it
3 would be if -- if the family contacted us or --
4 or -- and -- and that's the only way we would know
5 about it.

6 Q. Okay. So DSS wouldn't -- there's no,
7 sort of, tracking mechanism for DSS to account for
8 who's applying and being turned away?

9 A. Each CPA, as I understand, tracks
10 that, but that is not something that we track.

11 Q. And when you say each CPA tracks that,
12 is it tracked -- what makes you say that each CPA
13 tracks that data?

14 A. I mean, I'm -- I'm making a large
15 assumption that -- that that would be something
16 that a CPA would track, but we do not -- we do not
17 track that. We actually don't even get -- from --
18 from a child-placing agency, we -- we don't get
19 the actual packet for licensure. That's kind of
20 when we become aware that -- that -- that an
21 applicant has applied and -- and the CPA has been
22 working with them.

23 Now, Heartfelt Calling, obviously,
24 collects data on the front end. So if that
25 applicant came in through Heartfelt Calling,

1 Heartfelt Calling would -- would track -- they
2 follow up with the child-placing agencies that
3 these families have chosen to go to, and they
4 follow up to -- to -- to determine, because
5 they're tracking how -- you know, when -- when
6 they actually finish the process. So when they
7 started the application and then when an -- when a
8 license was actually issued.

9 So if they came through Heartfelt
10 Calling, I'd say, again, starting last July to
11 current, we probably would be able to have that
12 information, but otherwise, prior to that time we
13 would not have necessarily known.

14 Q. Got it. And what -- why don't you
15 explain, sort of, what Heartfelt Calling is?

16 A. So we have a contract with the South
17 Carolina Foster Parent Association, and there's
18 several components within that contract that they
19 provide support to the agency for, and one of the
20 components is Heartfelt Calling.

21 And so it is the centralized
22 application and intake line that they have. It's
23 HeartfeltCalling.org. There's a, like, 1-88 (sic)
24 number that people can call. They have a couple
25 of folks on staff that, if you call, if you email,

1 they will walk you through the application
2 process, and they have -- and so they do all of
3 that upfront work, and then they -- they send that
4 application to whatever -- today, to whatever
5 child-placing agency a family chooses.

6 So they don't choose the family for --
7 choose the CPA for the family. The family is
8 given a list of all of the available CPAs, and --
9 and they -- they then choose their own.

10 Q. And did Heartfelt Calling exist before
11 July 2020?

12 A. Oh, yes.

13 Q. But it played, it sounds like, a
14 different -- a slightly different role before that
15 time; is that right?

16 A. They were -- they were just main -- I
17 mean, at that time, prior to last July -- prior to
18 July 2020, they were just screening applicants for
19 us, for -- for DSS, and then we -- when we shifted
20 some of that work and shared that work with the
21 CPAs, they began doing that upfront screening and
22 -- and work for -- to help -- help the CPAs and
23 the families get to where they wanted to go.

24 Q. So I'm going to ask you a couple of
25 more state-related questions, and you can just

1 tell me. If it's something that you know the
2 answer, terrific. Otherwise, tell me if -- DSS to
3 provide is, which is, before July 2020, how many
4 families per year, say, roughly, starting in 2018,
5 did DSS recruit who were not applying under the
6 kinship care umbrella?

7 A. So I don't have that data in my head,
8 but that is data that we would be able to -- to
9 get you.

10 Q. And then the -- the same question
11 slightly different is, before July 2020, how many
12 families were trying to serve as kinship care
13 foster parents?

14 A. Yeah, I -- we would -- we could -- we
15 could try to get you that data. Again, we -- we
16 began tracking that data pretty closely, and our
17 big push with kinship started roughly two years
18 ago. So -- so you will -- you will see a huge
19 increase between, I'd say, like, 20- -- the end of
20 2018 to -- to now or either 20- -- early 2019 to
21 now.

22 We -- we have had a large spike in the
23 number of licensed kinship care providers, because
24 we started off with, really, like, around, I want
25 to say, 5 and -- and now we're -- we're into the

1 families who can accommodate and care for children
2 with medically complex needs. It -- it's really,
3 you -- you -- you need a diverse group of -- of --
4 of foster families who can assume responsibilities
5 and care for lots of different types of children.

6 Q. So returning to the line of questions
7 we were just talking about. You -- you had
8 mentioned that private CPAs support foster parents
9 during the application process; is that right?

10 A. Yes. Well, yes. It's -- again, going
11 back to that Heartfelt Calling piece, when you say
12 application process, once they get through the
13 application process, they're -- they're then at
14 the licensing process then, in my mind, I guess.

15 Q. So it sounds like the answer -- I
16 mean, it sounds like the answer is, yes, CPAs do
17 provide support during the application, the sort
18 of application/licensing process; is that right?

19 A. Yes. Yes.

20 Q. And do all private CPAs provide
21 support during this process?

22 A. Yes.

23 Q. Are there differences among the CPAs
24 in terms of what support they provide?

25 A. They -- they all have to -- have to

1 provide a -- a general area of -- of support. You
2 know, we have a contract. There's certain
3 supports that are outlined in that contract, and
4 many of them do things perhaps beyond that, and it
5 may -- so it may look a little bit different, but
6 the general requirements of what they have to do
7 to support to meet the requirements of the
8 contracts are the same.

9 Q. Is DSS aware of the fact that some --
10 some CPAs go above and beyond what's required by
11 the contract in terms of providing support during
12 the application process?

13 A. I don't -- I mean, I don't have
14 knowledge specifically of -- of -- of who does
15 what for their families outside of -- that sits
16 outside of the contract. You know, we have a lot
17 of -- we have a lot of child-placing agencies that
18 have a lot of donor dollars, and they do those --
19 those kind of supports, help provide those extra
20 supports outside -- that sits out -- outside of a
21 contract.

22 It could be something as simple as,
23 you know, they've put together -- and I'm totally
24 making this up as an example. But they have put
25 together a -- a group of people who are -- who are

1 going to go and take meals to foster families when
2 they get a new placement or mow their grass or --
3 I mean, you know, those -- those kind of things
4 sit outside of a contract.

5 Q. Right. Is -- is Miracle Hill one of
6 the CPAs that you're envisioning when you talk
7 about CPAs that have all the donor dollars that
8 are able to go above and beyond what's required by
9 the contract?

10 A. So I'm not aware of how -- what kind
11 of donor dollars Miracle Hill has or any other
12 CPA. I mean, I do know, obviously, some are more
13 blessed than others in that way, and -- and they
14 have -- they have a lot of, you know, donor
15 support for their organizations that -- that allow
16 them to do things -- do -- support foster families
17 and our kids outside -- that sit outside of our
18 contract, but I'm not aware specifically of
19 what -- what Miracle Hill has.

20 Q. So it sounds like you're aware -- it
21 sounds like DSS is aware that some CPAs are able
22 to do more, but DSS doesn't know which ones they
23 are?

24 A. That's correct. I don't know that
25 information specifically.

1 Q. So then how did DSS know that some
2 provide more services than others?

3 A. You -- I mean, you just -- you hear
4 and -- I mean, you hear about folks in the
5 community. You see it all over social media of --
6 of -- of certain organizations that are
7 fundraising and supporting children and families
8 who are supporting the foster care system.

9 Q. And is Miracle Hill one of the
10 organizations that you've -- that you're heard
11 about in these anecdotal settings about providing
12 extra support to its families?

13 A. Not Miracle Hill specifically.

14 Q. Are there differences between the
15 CPAs' reputations?

16 A. No.

17 Q. All CPAs are viewed as
18 interchangeable?

19 MR. COLEMAN: Object to the form of the
20 question.

21 But you can answer.

22 THE WITNESS: What -- what do you mean
23 by interchangeable?

24 BY MS. SCHINDEL:

25 Q. Well, I guess I'm a little confused by

1 your answer, though, because you -- about how you
2 see on social media that -- that certain CPAs are
3 doing certain things, supporting families in
4 certain ways.

5 So it sounds like CPAs do have sort of
6 reputations within the communities; is that fair?

7 A. That's fair, yes.

8 Q. And so are there differences among
9 those reputations? Are some known to -- to -- to
10 have particularly good reputations within the
11 community?

12 A. I'm -- I'm not -- I'm not aware of --
13 of anyone judging a particular CPA on their
14 reputation. What I will say is, is that you
15 have -- we have some really tiny, small, small
16 CPAs. So you have CPAs who maybe only have two
17 foster homes. They have just two licensed foster
18 homes. And then you have some who have 50 foster
19 homes, and you have some --

20 So -- so I would say, it stands to
21 reason that your larger child-placing agencies who
22 have the -- the sort of more foster homes, likely
23 are maybe recruiting, actually, you know, asking
24 for support for their organizations maybe a little
25 bit more because they have more foster families

1 that have more needs.

2 I mean, if you only have two foster --
3 foster families over here, CPA A has two foster
4 families versus over here CPA B as 100 foster
5 families, that's -- that's a pretty significant
6 difference, and so if you looked at the number of
7 licensed foster homes over all of the CPAs, both
8 non-therapeutic and therapeutic, you would see a
9 vast difference in their size.

10 Q. Got it. That makes sense. And so
11 that -- that difference in size may affect how
12 well known they are in the community and how
13 they're perceived in the community; is that right?

14 A. Yes.

15 Q. And just -- just to hone it in one --
16 one step further, with the idea being that the
17 larger CPAs would have a larger presence in the
18 community, would be more well known and -- and
19 have more -- people would know more about them?

20 A. Yes.

21 Q. Do -- do private CPAs provide any
22 support to foster families after they are
23 licensed?

24 A. Yes.

25 Q. Do they provide training on -- on the

1 unique needs of foster children?

2 A. So some CPAs have their -- it looks a
3 little bit different. Some CPAs do have -- they
4 offer their own training, but Heart- -- again,
5 going back to that Heartfelt Calling component,
6 another big component of that foster parent, South
7 Carolina -- South Carolina Foster Parent
8 Association contract is training.

9 And so they have a learning management
10 system where they have online trainings. They do
11 live webinar trainings. The last couple of years,
12 obviously, we haven't been doing very many
13 in-person trainings because of COVID. So we
14 really did transition everything to virtual.

15 So the majority of our CPAs utilize
16 that learning management system to do that ongoing
17 continuous training for their foster families,
18 because we're always adding topics, and then
19 there's some -- you know, there's -- for instance,
20 with the new -- with the new regulations that went
21 into effect in September, we now require CP- --
22 CPR and first aid. So that's an added requirement
23 to be -- to be licensed. And so that's -- that's
24 a training that we just recently had to add to our
25 menu of trainings, if you will.

1 So some of them do do their own
2 trainings and offer them, while others -- and --
3 and so sometimes it might be a hybrid, where
4 you've got the CPA doing some training, but they
5 also send their foster parent -- parents over
6 to -- to our -- our Heartfelt Calling team that --
7 where there's an education director and she
8 provides -- she -- she built the learning
9 management system and makes sure that all of the
10 trainings are -- are up to date, and she keeps
11 adding.

12 Q. Do CPAs provide counseling for the
13 foster parents?

14 A. Counseling? I'm -- I'm not aware that
15 they provide counseling to the foster parents.
16 Consultation -- consultation and coaching, yes, I
17 think that's part of the -- the support that --
18 that you provide to a foster family.

19 Q. And -- and the consultation and
20 coaching, they provide those services to the
21 foster children and other members of the foster
22 family?

23 A. The child-placing agency would not be
24 responsible for that. Again, the foster care case
25 manager is responsible for anything involving the

1 child.

2 Q. Do private CPAs help families at all
3 in caring for a foster child, by -- by which I
4 mean, you know, helping to make doctors'
5 appointments, assisting with transportation,
6 providing care for -- for other children in the
7 home, anything like that?

8 A. No. That's the responsibility of the
9 foster parent or the foster care worker.

10 Q. Do -- so -- so foster private CPAs
11 never provide those types of services?

12 A. I'm not aware that any non-therapeutic
13 child-placing agency provider provides those
14 services. That's the responsibility of -- of the
15 foster care case manager and -- and/or the foster
16 parent.

17 Q. Do private CPAs donate clothing for
18 foster children or food or provide birthday or
19 holiday gifts?

20 A. Again, this seems very case specific
21 to me. But I'm not aware of a specific case, but
22 they're constantly doing fundraising, which speaks
23 to what I -- what I just answered before, which is
24 reaching out to the community and asking for
25 certain donations. That may be gifts for

1 Christmas. That may be meals. I think that's --
2 they -- they ask for -- for lots of different
3 kinds of support for their families.

4 Q. So then tying back to that answer you
5 gave earlier, is it -- is it fair to say that CPAs
6 with larger presences are able to provide those
7 types of services: getting donations for
8 clothing, getting birthday cakes, more readily
9 than some of the smaller CPAs with, say, two
10 families in their network?

11 MR. COLEMAN: Object to the form of the
12 question.

13 But you can answer.

14 THE WITNESS: And I would say no, I
15 don't -- I don't think that's fair to say. I
16 think it's about how you -- how you recruit.
17 It's -- it has everything to do with how you're
18 marketing your needs.

19 BY MS. SCHINDEL:

20 Q. Is DSS aware of private CPAs that
21 provide these types of services: donate --
22 clothing donations, birthday cakes, to families
23 with whom they're working?

24 A. I don't know about birthday cakes and
25 clothing specifically, but I do know that they

1 provide supports -- you know, some of them do
2 provide supports that set outside of the contract.

3 Q. And are there differences in the level
4 of support among -- that CPAs are able to provide?

5 A. I can't answer that, because I'm not
6 aware. I'm -- I'm not -- I don't know the answer
7 to that.

8 Q. I -- I guess I find that answer a
9 little surprising. DSS is not aware of any
10 differences in the support that is provided by
11 private CPAs?

12 A. Again, I'm -- I'm not aware of that,
13 of the differences.

14 Q. Is DSS aware of the differences?

15 A. I'm -- I'm not aware of the
16 differences. And if I'm DSS, I guess I'm going to
17 say, no, we're not aware of the differences.

18 Q. So it's DSS's position that all
19 private CPAs are providing the exact same level of
20 support and services to the families with whom
21 they're working?

22 MR. COLEMAN: Objection to the extent
23 it misstates the witness's testimony.

24 But you can answer.

25 THE WITNESS: The -- so all of the CPAs

1 are required to buy -- to provide a -- a certain
2 level of support and service that -- that sit
3 inside and are governed by our contract. Anything
4 that sits outside of that we think is wonderful.

5 BY MS. SCHINDEL:

6 Q. And DSS is aware that some things are
7 done that fit outside of those -- the -- the --
8 the bare minimum that's required by the contract,
9 right?

10 A. Again, we're -- we're aware of --
11 of -- of what we see or what we hear of the
12 different levels of support that sit outside of
13 the -- of the actual contract itself. What those
14 acts or supports look like for every single
15 certain CPA, I -- I could not tell you.

16 Q. Is -- is -- is Miracle Hill a CPA that
17 is known to DSS to provide extra support beyond
18 what's required by the contract?

19 A. I cannot say what specifically Miracle
20 Hill does to support their -- their foster
21 families that sit outside of our contract.

22 Q. But is Miracle Hill a CPA that is
23 known to provide extra support, even if you can't
24 specifically say what that extra support is, to
25 families outside of what's required by the

1 contract?

2 A. I -- I don't know. I don't know what
3 other additional supports Miracle Hill provides.

4 Q. Does DSS view Miracle Hill as a CPA
5 that only does what is required by the contract?

6 A. DSS views Miracle Hill -- Hill just
7 like other -- every other CPA, and -- and we're
8 focused on the terms and -- the terms and
9 conditions of what they agreed to to provide
10 foster parents within the parameters of the
11 contract.

12 Q. So beyond what is done -- what is
13 required by the contract, DSS is not aware of what
14 other things any CPA does --

15 MR. COLEMAN: Objection to the --
16 objection.

17 MS. SCHINDEL: I'm not finished, Miles.
18 Miles, I have to finish my question first.

19 MR. COLEMAN: Please do.

20 BY MS. SCHINDEL:

21 Q. -- beyond what is required by the
22 contract, DSS is not aware of what other things --
23 supports and services the CPA provides to the
24 families that it's working with?

25 MR. COLEMAN: Objection to the form of

1 have swimming pools, because most of them are
2 going to have to make changes in order to come up
3 to meet the regulatory requirements now.

4 And so we get lots of questions about
5 that. Vaccinations were added to the new
6 regulations. We're getting lots of questions
7 about -- from child-placing agencies on what that
8 means for their applicant.

9 So there is a level of consultation
10 that that comes naturally as they might have
11 questions about things.

12 Q. Does Miracle Hill have any particular
13 reputation in the foster care community?

14 A. I don't know of a particular
15 reputation. They're a child -- they're a
16 child-placing agency. They're a faith-based
17 child-placing agency.

18 Q. How would you describe Miracle Hill's
19 reputation within the foster care community?

20 A. I -- I mean, I think it's -- I would
21 describe it as good. I have never heard anything
22 adverse from -- from the families that they serve.
23 So I -- they -- they have a lot of -- they have a
24 lot of foster homes. And, in fact -- now, I don't
25 know what the numbers are today, but initially

1 they were the largest non-therapeutic foster care
2 agency in the state. They had the most homes at
3 one point in time.

4 Q. Is Miracle Hill's reputation similar
5 or different to other CPAs in the Upstate region?

6 A. I wouldn't -- I don't -- I don't know
7 of any difference. I don't know of any difference
8 of -- of their reputation versus another CPA in
9 the Upstate region.

10 Q. Let's take a look at what will be
11 Exhibit 4, which is Tab 15.

12 (Exhibit 4, Document Titled, All
13 Placements, Therapeutics Placements, File Number
14 10545-E-0003-0003, marked for identification.)

15 THE WITNESS: Can we take, like, a
16 quick bathroom break?

17 BY MS. SCHINDEL:

18 Q. Oh, of course. Yes. Would you
19 like -- I think lunch is around the corner. So
20 it's -- is five minutes sufficient for now?

21 A. Yes. I just need to go down the hall,
22 and I'll be right back.

23 MS. SCHINDEL: Perfect. Then let's
24 take five minutes.

25 VIDEOGRAPHER: The time on the monitor

1 is 11:39 a.m., and we're going off the record.

2 (A recess was taken.)

3 VIDEOGRAPHER: The time on the monitor
4 is 11:55 a.m. We are back on the record.

5 BY MS. SCHINDEL:

6 Q. Okay. Ms. Barton, does -- do CPAs
7 provide recommendations to DSS about the
8 suitability of prospective foster parents?

9 A. They provide the assessment. So part
10 of their home study is -- is assessing that family
11 and in various -- and in various areas. And so,
12 certainly, they -- they bring a level of
13 recommendation. They're not the -- they're not
14 the final decisionmakers.

15 Q. And -- and is that -- DSS is relying
16 on CPAs to -- to play that role in the process?

17 A. Yes.

18 Q. Okay. Let's take a look at -- I'm
19 sorry, I don't even know if we marked it yet. We
20 have not. So Tab 15, which will be Exhibit 4,
21 which is 10545-0003-0003.

22 Okay. Okay. So do you have this
23 exhibit up?

24 A. Not yet. It's loading.

25 Q. Okay.

1 MR. COLEMAN: It's Exhibit 4, right?

2 MS. SCHINDEL: Yes, Exhibit 4.

3 MR. COLEMAN: Got it.

4 THE WITNESS: It's up.

5 BY MS. SCHINDEL:

6 Q. Okay. Have you -- have you seen this
7 document before, Ms. Barton?

8 A. Yes.

9 Q. Okay. And -- and you recognize this
10 as a document that was provided to us by your
11 counsel?

12 A. Yeah. I have not seen -- I've seen --
13 I've seen this data before in this format. I'm
14 not aware that our counsel provided it to you,
15 so...

16 Q. I see. So is this a -- a true and
17 accurate representation of the data that you have
18 seen in the ordinary course of your work?

19 A. Yes.

20 Q. So what I would like to do is go
21 through the -- the CPAs on this list. I believe
22 this document reflects a list of CPAs and -- and
23 placements from 2017 to 2021; is that accurate?

24 A. Yes.

25 Q. And I would just like to go through

1 them and ask questions -- a couple of questions
2 about each placement.

3 A. Okay.

4 Q. So the first -- the first question for
5 each of these, and we can just go down the list,
6 is, does this CPA serve Region 1 or the Upstate
7 region.

8 So going down the list, does Alston
9 Wilkes Society serve Region 1, what I refer to as
10 Region 1, what you refer to as the Upstate region?

11 MR. COLEMAN: Objection to the form,
12 and I think Jackie Lowe was designated and
13 testified as to the answer to that question.

14 But if you're answer -- able, you can
15 --

16 THE WITNESS: Yeah, and I'm not going
17 to be able to tell you which of these CPAs serves
18 which part of the state. That's not information
19 that I was aware that I needed to prep for related
20 to today's deposition.

21 BY MS. SCHINDEL:

22 Q. So you cannot tell me which CPA served
23 which parts of the state going down this whole
24 list?

25 A. No.

1 Q. Is DSS concerned that discriminating
2 against foster families on the basis of faith or
3 sexual orientation would reduce the number of
4 foster families available to serve?

5 A. Can you repeat that question?

6 Q. Sure. Is DSS concerned that
7 discriminating -- excuse me -- that discriminating
8 against foster families on the basis of faith or
9 sexual orientation would reduce the number of
10 foster families available in the state?

11 A. DSS is -- I -- I wouldn't say -- I
12 don't know that the word concerned is correct. I
13 think my response is, is that, as you can see, we
14 have a laundry list of child-placing agencies that
15 serve various parts of the state. So you have
16 lots of -- you have -- you have a lot of CPAs that
17 are -- you have some CPAs that are faith-based,
18 like Miracle Hill, or who are attached to other
19 parts of the community.

20 For example, Epworth is connected to
21 the Methodist Church. Connie Maxwell is connected
22 to the Baptist Church. Thornwell is connected to
23 the Presbyterian community. The Bair Foundation
24 focuses on recruiting and licensing foster
25 families who can take on medically-complex needs

1 of children in foster care.

2 So I would say that there's a variety
3 of child-placing agencies across the state that
4 target and recruit particular communities or
5 particular -- who -- who can serve a variety of --
6 of different -- different areas and -- and types
7 of children.

8 Q. I'm not -- I just -- I'm not sure that
9 that -- that answered my question, which I think
10 is at least initially a yes-or-no question, and
11 then to the extent you need to provide context,
12 you, of course, can.

13 But I -- but the first part is yes or
14 no, is DSS concerned that discriminating against
15 foster families on the basis of faith or sexual
16 orientation would reduce the number of foster
17 families available?

18 MR. COLEMAN: Object to the form of the
19 question.

20 But you can answer and explain.

21 THE WITNESS: I -- I would say -- I
22 would say, I mean, we don't support
23 discrimination, but I would say do I think that
24 it -- it's going to impact the number of families
25 that are recruited, and are we concerned about

1 that? No, I don't think we're concerned about
2 that, because I think that families have a variety
3 of choices of pathways for all -- for different
4 organizations that -- that are the pathway to
5 support them towards the licensure process.

6 BY MS. SCHINDEL:

7 Q. Is DSS aware of -- of families that
8 have been discriminated against by CPAs based on
9 sexual orientation or faith?

10 A. We're aware of each organization -- of
11 organizations' criteria in which they lay out
12 within their -- their organizations of the kinds
13 of families that they want to work with, but I --
14 I'm not -- other than this particular case, I'm
15 not -- I'm not aware of anyone.

16 Q. Are CPAs that turn away families based
17 on faith or sexual orientation required to tell
18 DSS that they have done so, that they have turned
19 away families who applied, on those -- based on
20 those criteria?

21 A. I'm not -- I'm not aware of a
22 mechanism in which that's reported back to us,
23 unless -- unless -- unless the family themselves
24 contact our state office and make us aware.

25 Q. So does -- DSS doesn't require CPAs to

1 notify DSS when they turn away families based on
2 religion or sexual orientation so that DSS -- DSS
3 could follow up with those families?

4 A. No.

5 Q. Is allowing CPAs to exclude families
6 based on religious criteria consistent with best
7 practices in the field of child welfare?

8 A. Can you repeat the question?

9 Q. Is allowing CPAs to exclude families
10 based on religious criteria consistent with best
11 practices in the field of child welfare?

12 A. No.

13 Q. Why not?

14 A. Again, we -- we don't -- we don't --
15 we don't believe in discrimination. That's not --
16 that's not a part of -- that's not a part of -- of
17 what -- of what we do in -- in the -- in the
18 licensing process.

19 Our -- our regulations, our policies
20 specifically -- specifically say that -- you know,
21 around the licensing piece related to this matter,
22 that we -- we will -- we, the agency, will not
23 discriminate.

24 Q. And so it sounds like DSS itself will
25 not discriminate on the basis of religion or

1 sexual orientation, but it understands that it
2 works with CPAs who do; is that right?

3 A. Our -- there are CPAs that, again,
4 have -- have a certain criteria and are looking
5 for particular families that they are going to
6 work with.

7 Q. Right. And -- and -- and you
8 testified earlier that DSS is relying on CPAs to
9 provide -- it -- it -- it relies on CPAs to
10 provide recommendations for placements for the
11 children that are in need of homes?

12 A. Yeah. I mean, yes, they are -- they
13 do -- at this point in particular, since July,
14 they are predominantly licensing all of our
15 non-kin families.

16 Q. So then taken together, what -- what
17 you're telling me is that DSS understands that
18 CPAs or substantive CPAs it works with are culling
19 out prospective families based on religion or
20 sexual orientation, and then DSS takes who is
21 recommended, who makes it through that screen, and
22 then DSS does not discriminate further against
23 those families based on religion or sexual
24 orientation; is that right?

25 MR. COLEMAN: Object to the form of the

1 question.

2 But you can answer.

3 THE WITNESS: And I'm going to need you
4 to repeat that. It was a lot.

5 BY MS. SCHINDEL:

6 Q. DSS -- DSS works with CPAs who cull
7 out families, screen out families, based on their
8 own set of religious criteria or criteria based on
9 sexual orientation, and then DSS relies on CPAs to
10 recommend whoever has made it past that screening
11 process to become a prospective foster parent in
12 South Carolina; is that right?

13 A. Yes.

14 Q. If there were a CPA that had a
15 religious objection to working with black or
16 interracial families, would DSS permit it to do
17 so?

18 MR. COLEMAN: Object to the form of the
19 question.

20 You can answer, if you're able.

21 THE WITNESS: Can you repeat the
22 question?

23 BY MS. SCHINDEL:

24 Q. If -- if a CPA had a religious
25 objection to working with black or interracial

1 South Carolina, including the role of the DSS and
2 the role of private child-placing agencies,
3 including faith-based CPAs.

4 So I think your objection is
5 unwarranted, and to the extent you're trying to
6 coach the witness, I think it's improper.

7 MR. COLEMAN: Well, I disagree. I'm
8 not coaching the witness. And we can have
9 different views on which specific topics
10 designated are relevant. I have made my
11 objection.

12 MS. SCHINDEL: That's fine. You have
13 made your objection. The witness should be
14 answering these questions.

15 MR. COLEMAN: And she is.

16 BY MS. SCHINDEL:

17 Q. I have to look at where I was.

18 A. I think we were at Epworth. I think
19 we were still going down the list.

20 Q. We were going down the list, but I did
21 have -- I think I had a question about -- right,
22 so you had just said: I'm sure the licensed
23 consultants that work with the individual CPA
24 provide -- that they're aware of the criteria.

25 So my -- and my question is, is DSS

1 aware of the screening criteria implemented by the
2 CPAs in South Carolina?

3 A. Yes.

4 Q. And DSS tracks that information?

5 A. Again, I think -- I think your -- your
6 track is -- is -- is throwing me. We're aware of
7 the CP- -- of each individual CPA's criteria,
8 but -- but as far as -- I don't know what you mean
9 by tracking that.

10 Q. And you're aware of each individual
11 CPA criteria how? By -- by simply by looking at
12 the CPA's website, or does DSS follow up with the
13 CPAs or in some way ask CPAs to tell them what
14 their screening criteria are?

15 A. So that would be a part of -- of their
16 submission when they become a CPA. That -- that
17 would be part of information that -- that they
18 provide to us as a child-placing agency, when
19 they're issued -- when they're the child-placing
20 agency license.

21 Q. Okay. Can you tell me on this list
22 which CPAs that DSS knows accepts families
23 regardless of sexual orientation or religion?

24 A. DSS would know all of them.

25 Q. And can you tell me which ones on the

1 list DSS knows accepts families regardless of
2 sexual orientation or religion?

3 A. I can tell you the ones that -- that
4 I, today, as the DSS representative know, which
5 may not -- which may not be inclusive of all of --
6 you know, of all of them on the list.

7 Q. Yeah, I think -- I think you should go
8 ahead and do that, because I do think that this is
9 a topic that you were meant to be educated on. So
10 I think you should -- I think you should go ahead
11 and do that.

12 A. So ask -- so can you ask the question
13 again?

14 Q. Yes. Which of these on this list does
15 DSS know accepts families regardless of sexual
16 orientation or religion?

17 A. Okay. So it would be Alston Wilkes,
18 Broadstep, CAPA, Family Preservation, Growing
19 Homes Southeast, Crosswell, Justice Works -- which
20 Justice Works, I wasn't aware they even had
21 families. They -- they provide services. So I
22 don't even know that that's related to this -- but
23 New Foundations, SC Mentor, SC YAP, Specialized
24 Alternative Youth. And those are the ones that
25 I'm aware of.

1 Q. Okay. And so then for the rest, does
2 DSS know which agencies exclude families based on
3 religion or sexual orientation?

4 A. DSS --

5 MR. COLEMAN: Same -- same objection.
6 But you can answer.

7 THE WITNESS: DSS would know -- would
8 know -- would know that information or does know
9 that information, so yes.

10 BY MS. SCHINDEL:

11 Q. Okay. And so how many -- so DSS knows
12 exactly how many CS- -- CPA options are available
13 for non-Christians and for same-sex couples?

14 A. Yes.

15 Q. And what -- does DSS do anything to
16 relay that information to anybody?

17 A. So if -- if you go on the -- the
18 HeartfeltCalling.org website, there is a list of
19 the CPAs, and -- and it -- it does -- they -- they
20 share just a little bit about who -- what their
21 mission is and -- and -- and so that's -- I mean,
22 that's how families are directed.

23 When they -- when they apply today
24 through Heartfelt Calling, they're directed to a
25 list of CPAs, and -- and there's -- there's

1 information about each of those CPAs the CPA has
2 provided about their organizations, so the
3 families can make the right -- you know, make the
4 right fit for their family for who they want to
5 work with on collecting all of the requirements
6 for licensure.

7 Q. So does that -- that website that
8 you're referring me to, does it say Miracle Hill
9 will not work with same-sex couples?

10 A. I have not looked at -- looked at that
11 in some time. So I -- I can't say that it says
12 that specifically or not. I would -- I would have
13 to -- I would have to look at it.

14 Q. Then how do you reconcile those two
15 statements that you just gave me? You said a
16 family can go to the website and know exactly who
17 they can work with, but you actually don't know if
18 the website, in fact, does provide that
19 information; is that right?

20 MR. COLEMAN: Object to the form of the
21 question.

22 You can answer.

23 THE WITNESS: It gives information
24 about the organization, which could include that.

25 BY MS. SCHINDEL:

1 Q. Right. But the information might not
2 actually tell families who they can and cannot
3 work with; is that right?

4 A. That's correct.

5 Q. In total, how many non-therapeutic
6 CPAs serve Region 1?

7 A. I don't have -- I don't have that
8 information. I -- I didn't -- I don't have those
9 numbers.

10 MR. COLEMAN: Same objection. I object
11 to --

12 (Crosstalk.)

13 THE WITNESS: I mean, we have those
14 numbers. I just don't have those numbers here
15 today.

16 BY MS. SCHINDEL:

17 Q. If DSS learns that most of the
18 non-therapeutic CPAs that serve Region 1 excludes
19 same-sex couples, would that concern DSS?

20 A. I think it would -- I -- I think it
21 would concern us, but I also would say that, in
22 the same light, families always have another
23 option. They can always come through DSS.

24 Q. If most of the non-therapeutic CPAs
25 that serve Region 1 excluded same-sex couples,

1 could that harm efforts to grow the pool of foster
2 families in Region 1?

3 A. I -- I would say, no, because we would
4 serve -- we would serve those families. There --
5 there's still an option for those families through
6 the department.

7 Q. Since DSS changed its practice to
8 handle just kinship applicants, you said that, and
9 you're saying now, that DSS would handle
10 non-kinship applicants if the family didn't want
11 to work with a particular CPA; is that right?

12 A. Yes.

13 Q. Has DSS handled any non-kinship
14 applicants since the change in policy?

15 A. I -- I don't -- I don't know. I would
16 have to look at -- at each region to make that
17 determination, if -- if we've actually accepted.
18 It's been very few, if -- if any.

19 MS. SCHINDEL: Okay. Well, this is
20 definitely Topic 5. So this -- this is
21 information we absolutely will need to get from
22 DSS, which is whether DSS has handled any non- --
23 non-kinship applicants since the change in
24 practice or policy. And if so, how many.

25 BY MS. SCHINDEL:

1 Q. Sitting here today, you're not aware
2 of whether DSS has handled any non-kinship
3 applicants since the change in practices or
4 policies?

5 A. No.

6 Q. Does Heartfelt Calling know that it
7 can inform non-kin applicants that they can go
8 directly to DSS if they prefer?

9 A. It's strongly encouraged, yes, but
10 they strongly encourage families to work with one
11 of the child-placing agencies.

12 Q. And how does Heartfelt Calling know
13 that it can inform that? Has DSS told Heartfelt
14 Calling that they can tell non-kin applicants to
15 go directly to DSS?

16 A. They consult with -- they -- they
17 consult with our -- our director of child welfare
18 licensing on any -- any individuals that are --
19 are not feeling like they -- they have -- there is
20 a good match between them and the CPA.

21 Q. Sorry, it sounds like the answer is,
22 yes, DSS tells Heartfelt Calling that they can
23 tell non-kin applicants to go directly to DSS, or
24 is the answer, no, DSS does not relay that
25 information?

1 A. The answer is -- is yes, and Heartfelt
2 Calling actually reaches out for DSS to consult on
3 those applicants that would like to come to DSS,
4 as opposed to a CPA.

5 Q. Do local DSS offices know they can
6 handle non-kin applicants?

7 A. Yes, on a case -- on a -- in a -- on a
8 very situational basis. So if you do have
9 families that we -- like we just spoke of,
10 they're -- they're consulted, but they're not --
11 they don't -- they don't take applications at the
12 regional offices for non-kin families. So the
13 pathway through that would be Heartfelt Calling to
14 our -- our state office, and then it feeds down
15 into the region.

16 Q. So, as we just discussed, Heartfelt
17 Calling's website did not necessarily let
18 individuals know which agencies accept people of a
19 particular faith or of a sexual orientation, but
20 if somebody called Heartfelt Calling, does
21 Heartfelt Calling provide that information?

22 A. I don't know if they provide that
23 information to families or not. They -- it's my
24 understanding that Heartfelt Calling directs them
25 direct to the website or to the -- to the -- the

1 CPAs, either their web page or their information
2 that they have provided to put on the website.

3 Q. And as we discussed, that information
4 does not necessarily relay whether an agency will
5 or will not work with a Catholic family or will or
6 will not work with somebody of a same-sex marriage
7 or whatever --

8 A. They --

9 (Crosstalk.)

10 Q. -- right?

11 A. Yes, that's correct.

12 Q. And those -- those families would
13 instead have to call around and ask the CPA
14 directly if they would work with them, if it's not
15 clear from the website; is that right?

16 MR. COLEMAN: Object to the form of the
17 question.

18 But you can answer.

19 THE WITNESS: Yes.

20 BY MS. SCHINDEL:

21 Q. I think you had mentioned that
22 Crosswell accepts families regardless of religion
23 or sexual orientation; is that right?

24 A. Yes. I'm not aware that they don't.

25 Q. Okay. You had mentioned that DSS

1 takes into account family preferences of children
2 when making placement decisions, and we talked
3 about that a little bit. Does that include a
4 youth who prefers a family who shares his or her
5 faith?

6 A. Yes.

7 Q. And would it include an
8 LGBTQ-identified individual who would prefer -- or
9 child, who would prefer to live in an LGBTQ
10 family?

11 A. Yes.

12 Q. And are LGBTQ youth overrepresented in
13 South Carolina's foster care system?

14 A. Sorry, I missed that last part of that
15 question.

16 Q. Are LGBTQ youth overrepresented in
17 South Carolina's foster care system?

18 A. Like, overrepresented, as in what
19 respect?

20 Q. By that, I mean are there -- is there
21 a larger percentage of -- of youths in foster care
22 in South Carolina LGBTQ than the percentage of
23 youth in the -- in the country or in the state
24 that are LGBTQ?

25 A. No. I would -- I would say they're

1 outlined is the process that DSS has set up; is
2 that right?

3 A. Yes.

4 Q. Has this practice of allowing CPAs to
5 turn away families based on their sexual
6 orientation caused a loss of available families
7 for children in South Carolina?

8 A. Can you repeat that question?

9 Q. Has the practice of allowing CPAs to
10 turn away prospective foster parents based on
11 their sexual orientation caused a loss of
12 available families for children in South Carolina?

13 A. I would say, yes. If you turned -- I
14 mean, just one is -- is one less available family,
15 right?

16 Q. Right. If an applicant went directly
17 to a CPA and got turned away based on religious
18 criteria, then no one would follow up with that
19 family to ensure that they find a CPA, right?

20 The process we were talking about
21 earlier is just if you start with Heartfelt
22 Calling; is that right?

23 A. Yes. I mean, you're asking if the
24 family went directly to the CPA. Yes, that's
25 correct.

1 Q. Right. No one would follow up with
2 that family; is that right?

3 A. Well, we -- right. We wouldn't know.

4 Q. Does South Carolina -- excuse me.

5 Did DSS have any idea of how many
6 foster families in -- South Carolina loses each
7 year because Miracle Hill and other agencies
8 exclude potential families based on religion?

9 A. I think the only way we would know --
10 and I'm -- and, again, I -- we would have to check
11 with Heartfelt Calling to determine if they could
12 extract this data, but we would really only know
13 that over the last year, since -- since last
14 summer, when we transitioned all that work, but
15 prior to that time, I -- I don't think we have any
16 of -- any of that information.

17 Q. Right. And -- and you would only know
18 based on individuals who started the process with
19 Heartfelt Calling?

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. So that number could be significant, I
24 mean, given the fact that I told you Miracle Hill
25 turned away 25 to 30 families. The -- the number

1 could be higher, based on other agencies; is that
2 right?

3 A. Yes. I think that's reasonable.

4 Q. And -- and DSS -- am I right in saying
5 that DSS would not know if more than 100 families
6 had been turned away based on religious criteria?

7 MR. COLEMAN: Object to the form of the
8 question.

9 But you can answer.

10 THE WITNESS: We would only know,
11 again, for those applicants that applied through
12 Heartfelt Calling over the last -- well, since,
13 like, last July, when we transitioned all of that
14 non-kin work, but prior to that time, we -- if
15 they were going directly to those -- those
16 child-placing agencies and got turned away, we --
17 we wouldn't -- we wouldn't -- we don't track that
18 information. We wouldn't know.

19 BY MS. SCHINDEL:

20 Q. Are prospective foster parents aware
21 that they can apply directly through DSS for a
22 non-kinship care foster license?

23 MR. COLEMAN: Object to the form of the
24 question.

25 But you can answer, if you're able.

1 THE WITNESS: Can you repeat that
2 question?

3 BY MS. SCHINDEL:

4 Q. Sure. Are prospective foster parents
5 made aware that they can apply directly through
6 DSS for a non-kinship care foster license?

7 A. It's given -- I mean, it's given to
8 them after they have -- have -- are not successful
9 with the CPA. Like, that's their option if -- if
10 they -- if they are -- are -- can't find a CPA
11 that's a good fit to work with them.

12 Q. And how is that information
13 communicated?

14 A. Through Heartfelt Calling.

15 Q. So it's only communicated to families
16 that begin the process with Heartfelt Calling?

17 A. Yes.

18 Q. Are there currently sibling groups
19 that are separated because there is not a home
20 available that has the capacity to serve all
21 siblings?

22 MR. COLEMAN: Object to the form of the
23 question, and to the extent that Ms. Tester was
24 designated for and testified to it.

25 But you can answer, if you can.

1 THE WITNESS: Yes, there are siblings
2 separated because we don't have -- we don't have
3 capacity in foster homes to take all of them to
4 get them -- to get to keep all sibling groups
5 together.

6 BY MS. SCHINDEL:

7 Q. And how many?

8 A. I don't have that information. DSS
9 has that information available, but I -- I do not
10 have that information today.

11 Q. Have any CPAs in South Carolina shut
12 down before?

13 A. You mean closed?

14 Q. Sorry. Yes. Like, closed --
15 closed -- closed shop?

16 A. I'm not aware of -- I'm not -- I'm --
17 I mean, I'm sure there has been, but since --
18 since my time in this role for the last several
19 years, I'm not aware that -- that we have -- we
20 have closed a -- a child-placing agency.

21 Q. Has any CPA shut down for fail- -- or
22 closed for failure to comply with DSS's policies?
23 It sounds like the answer is no --

24 A. Not that I'm aware, no.

25 Q. Was DSS prepared to terminate Miracle

1 governor's request for a -- a waiver?

2 A. I don't remember.

3 Q. But you -- you did hear about it at
4 some point, you testified?

5 A. Yes. Yes.

6 Q. Did you think it was a good idea from
7 the perspective of child welfare policy?

8 MR. COLEMAN: Object to the form of the
9 question.

10 But you can answer.

11 THE WITNESS: I think it -- I think it
12 certainly has caused -- I guess it's -- it's --
13 I -- I don't -- I don't really know. I don't
14 really have an opinion.

15 BY MS. SCHINDEL:

16 Q. So you're -- you're responsible for
17 setting foster care policy in the state of
18 California -- excuse me, in South Carolina, but
19 you don't have a view on whether or not that's
20 good policy or not?

21 A. I -- I don't -- I don't have -- I
22 don't have an opinion about that. I think it's
23 very controversial, and -- and so I -- I don't
24 have an opinion about it.

25 Q. Did any other DSS officials or staff

1 express their views to you in support or against
2 of allowing CPAs to exclude families based on
3 religious criteria?

4 A. No.

5 Q. You've had no conversations with DSS
6 officials or staff about this issue?

7 A. Not -- not about how they felt about
8 it.

9 Q. Before the waiver went into effect,
10 did you consider it appropriate to implement a
11 policy of allowing CPAs to exclude families based
12 on religious requirements?

13 A. Can you repeat that question?

14 Q. Before the waiver did you, in your
15 capacity as someone who sets the policy for DSS's
16 prospective foster care, think it would be
17 appropriate to implement a policy of allowing CPAs
18 to exclude families based on religious
19 requirements?

20 A. No, we did not consider implementing a
21 policy.

22 Q. So was the -- the policy that allowed
23 CPAs to exclude families based on religious
24 requirements implemented only because the
25 governor's office intervened and told DSS to

1 implement this type of policy?

2 A. Yes.

3 Q. As one of the top foster care policy
4 makers here at DSS, would you permit CPAs to
5 exclude families based on religious criteria, if
6 the whole issue were up to you?

7 MR. COLEMAN: Object to the form of the
8 question, and ask -- I'll ask for clarification.
9 Is that -- are you asking her as 30(b)(6) or as an
10 individual?

11 MS. SCHINDEL: Well, I think that's --
12 that's pretty clearly in her individual capacity.

13 MR. COLEMAN: You can -- you can answer
14 the question, as it -- sorry. Go ahead.

15 THE WITNESS: Can you repeat it? I'm
16 sorry, go ahead. Can you repeat it?

17 BY MS. SCHINDEL:

18 Q. As one -- sure. Sure. So -- well,
19 let me back up and ask you this part.

20 I understand that you have somebody
21 that you report to, but is it fair to say that you
22 are one of the top policy makers in the foster
23 care space at DSS?

24 A. Yes.

25 Q. So in that role, and if it were up to

1 you, would you permit CPAs to exclude families
2 based on religious criteria?

3 A. No.

4 Q. What do you think is better from a
5 child welfare or foster care policy perspective,
6 to allow CPAs to exclude families based on their
7 religious criteria or to require all CPAs to
8 accept all qualified families?

9 MR. COLEMAN: Same -- same request, is
10 that -- is that asking her speaking on behalf of
11 DSS or individually?

12 BY MS. SCHINDEL:

13 Q. Well, let's ask -- I think -- I think
14 let's do it with -- with your -- in your
15 individual capacity as a policy maker.

16 A. Okay. So I think it would be -- I do
17 think it would be best to -- to -- to have all
18 CPAs treating all families, serving all families.

19 Q. And -- and why is that?

20 A. I think it -- it fits with -- it
21 aligns better with what our organization says we
22 will do, which is not discriminate against any of
23 the things, and so -- yeah.

24 Q. And going back to the question I just
25 asked a moment ago, that if it were up to you, you

1 would -- you would not permit CPAs to exclude
2 families based on religious criteria, why is that?

3 A. Say that again.

4 Q. I think the answers may be similar,
5 but I just want to make sure that to the extent
6 there are any differences.

7 Is -- is -- why when I asked you would
8 you allow -- would you allow CPAs to exclude
9 families based on religious criteria, and you said
10 no, and I just wanted to follow up and ask, you
11 know, why? Why is that your opinion, as the top
12 policy -- one of the top policy makers at DSS?

13 A. I see. I see. You -- you're asking
14 me -- and, again, I think it aligns with the same
15 thing I responded to before, which is if it were
16 me as the policy maker's sole decision, then I --
17 I -- I think that it -- it doesn't -- it would --
18 it doesn't align, if -- if you're practicing
19 differently, but yet you're serving -- you're
20 really -- you're really trying to support the same
21 mission, then I think that, again, we say we're
22 not -- we, DSS, the agency, that we're not going
23 to discriminate against anything.

24 We -- we don't -- we don't care
25 whether you're purple or green or you're single or

1 you live in a house or you live in an apartment,
2 and as -- as long as you can care for and support
3 and you meet all of those regulatory requirements
4 and you want to sign up to help support our
5 mission to temporally care for children, I think
6 having everybody practicing the same way is -- is
7 best.

8 Q. And do you think that that policy, you
9 know, that explanation that you just provided, do
10 you think it's best because it's best for the
11 children in foster care?

12 MR. COLEMAN: And for the sake of the
13 record, you're answering this in your individual
14 capacity.

15 THE WITNESS: Yeah. Yeah. So I --
16 I -- I don't know that it's best for the sake of
17 the children in foster care, but -- because I
18 think this -- while -- while, ultimately, I guess,
19 it might impact the children that are placed with
20 those families, and, I mean, if you think about
21 the -- the recruitment and sort of the initial
22 engagement of an applicant to a particular CPA or
23 our department, that's really what this is, right,
24 is -- is that -- that -- is that how does it --
25 who is going to work with the family towards

1 this -- on here, with the exception of Miracle
2 Hill, and -- and they're signed on the contract.
3 Everybody is signed on the contract. Miracle Hill
4 is the only one that has chosen not to receive the
5 admin rate.

6 Q. And why did Miracle Hill choose not to
7 receive the admin rate?

8 MR. COLEMAN: Object to form.

9 But you can answer.

10 THE WITNESS: Yeah, I don't know.
11 They -- they didn't give reason. They -- they
12 just requested that -- that they were interested
13 in still being a part of the contract, but did not
14 feel it necessary to receive the admin rate.

15 BY MS. SCHINDEL:

16 Q. And who -- who did Miracle Hill make
17 the request to when it -- when it asked to no
18 longer receive the admin rate?

19 A. I believe that went through our
20 contract division, our procurement division.

21 Q. And do you know what was discussed?

22 A. I do not, other than the request that
23 they -- they did not want the admin rate.

24 Q. Are you the person most knowledgeable
25 about whether Miracle Hill -- about why Miracle

1 Hill chose to no longer receive the admin rate
2 within DSS?

3 A. I would say -- I would say yes.
4 Although, I -- the request didn't come to me
5 directly. But, again, I -- I don't know the re-
6 -- there was no reason. They -- they were --
7 just said they -- they didn't -- they didn't want
8 the admin rate, and so we -- we said, okay.

9 I mean, we can certainly use those
10 dollars towards other things. So there's still --

11 Q. You mentioned -- oh, sorry.

12 A. I was just going to say, just to --
13 just to be clear, they're still signed on to the
14 non-therapeutic contract and have agreed to abide
15 by those terms of -- of that -- of that contract.
16 They're just not being paid anything related to
17 that.

18 Q. Does the fact that Miracle Hill no
19 longer receives the admin rate change any of their
20 obligations as the CPA?

21 A. No.

22 Q. Is Miracle Hill still providing
23 services for DSS?

24 A. Yes.

25 Q. You had mentioned, in response to my

1 questions and in response to some of Mr. Coleman's
2 questions, that -- that some families may not be
3 comfortable with certain CPAs. Are there specific
4 reasons a family might prefer one CPA over
5 another?

6 A. Sure. I mean, if -- you know, I'll
7 give you the same example I gave to Mr. Coleman,
8 which is, you know, if you're -- if you -- if I'm
9 a member of the United Methodist Church and, you
10 know, Epworth is promoting the foster care,
11 promoting foster care and recruiting foster
12 parents within my church, I might naturally be
13 more comfortable and choose to go with that
14 particular CPA because it's affiliated with
15 something I'm already connected to.

16 Q. Is it possible that one of the things
17 that might draw families to particular CPAs over
18 others is because they feel more comfortable with
19 the people working at that CPA?

20 A. Perhaps. Perhaps they have -- already
21 have connections there.

22 Q. Or -- or perhaps because the CPA has
23 offices closer to their home?

24 A. Possibly.

25 Q. Is it important for families to have

1 various CPAs to choose from so that they can find
2 one that they're comfortable working with?

3 A. Yes.

4 MS. SCHINDEL: I'm going to put on one
5 more exhibit, which is Tab 17 for us. It will be
6 Exhibit 10 -- well, no, I suppose -- I guess it's
7 Exhibit 11.

8 MR. COLEMAN: Yeah.

9 (Exhibit 11, Oasis Website Page, marked
10 for identification.)

11 MS. SCHINDEL: We have to -- we --
12 it's written as Exhibit 10 here, but we're going
13 to have to fix that and make it Exhibit 11.

14 BY MS. SCHINDEL:

15 Q. But let me know when you have that
16 open.

17 A. I do.

18 Q. Do you recognize this document? It's
19 a printout from the Oasis website.

20 A. I do not. They're one of our newer
21 CPAs. So I'm not as familiar.

22 Q. Well, it says: Benefits of fostering
23 with Oasis. And it lists several benefits on the
24 left-hand side. Do you see that?

25 A. Uh-huh. Yes.

1 Q. And one of the -- in bold, about five
2 lines down, one of the benefits, it says, is free
3 monthly home cleaning service; is that right?

4 A. That's what it says, yes.

5 Q. Did you know that -- does DSS know
6 that that's a benefit that Oasis provides to the
7 foster families with which it works?

8 A. I did not know that that was a benefit
9 of Oasis.

10 Q. Is that benefit required by all CPAs?

11 A. No.

12 Q. Excuse me. Let me rephrase that
13 question. Well, I think you got it, but let me
14 just make it cleaner.

15 A. Okay.

16 Q. Is that -- is that -- is that benefit
17 required by DSS's contract such that all CPAs must
18 provide it?

19 A. No.

20 Q. And do you know -- does DSS know
21 whether all CPAs provide this benefit?

22 A. No.

23 Q. Does DSS know that some CPAs do not
24 provide this benefit?

25 A. No. I mean, I -- I could not tell you

1 who -- who does and who does not.

2 Q. All right. One point that I just
3 wanted to make clear. You've been asked a couple
4 of times about case workers and -- and the fact
5 that DSS assigns case workers, and I -- I just
6 want to make sure I understand.

7 Non-therapeutic CPAs, do they assign
8 case workers to the families that they work with?

9 A. They have what they would, I think,
10 refer to as support, like family support workers,
11 that supports the family. We have case managers
12 or foster care workers. You'll hear people refer
13 to them differently. But they're -- they're
14 attached specifically to the child.

15 So for the CPA, they have a support
16 worker that's attached to the family. Our person
17 is attached to the child, but works with the --
18 with the family, if that -- I hope that makes
19 sense.

20 Q. I think so. So is it -- so the --

21 A. I was just going to say, so when a
22 child comes into foster care, they're immediately
23 assigned a foster care case manager, and that case
24 manager, whether they leave -- they might go to
25 Ms. Smith's house, and they might have to go to a

1 different placement at some point. That case
2 manager still holds on to that child and is
3 responsible for the case management of -- of that
4 child, wherever -- wherever they go while they're
5 in custody, our -- our custody.

6 Q. And there's not a comparable role
7 played by somebody affiliated with the CPA that --
8 that stays with the child wherever they go?

9 A. No.

10 Q. I think -- I'm sorry. Back to this
11 exhibit that I still have up. Hopefully, you
12 still have it near you.

13 The free -- the free monthly home
14 cleaning services, is that something that DSS
15 provides to the families that it's working with
16 directly?

17 A. No. Great perk, though.

18 Q. Yeah. And then, I don't have the
19 documents that Miles -- Mr. Coleman showed, but I
20 think he showed you this -- the very last thing
21 that was shown was Section J about religious
22 education.

23 MS. SCHINDEL: Would you mind putting
24 that back up, Miles? I just don't have it.

25 MR. COLEMAN: Yeah. Hang on here, real

1 quick. I've got it running off of a different
2 computer. So hold on. I think this is it. Is
3 that -- is that what you were looking for?

4 MS. SCHINDEL: Oh, I can't -- hold on.
5 Let me try popping it up. Yes. Yes.

6 BY MS. SCHINDEL:

7 Q. And so this section which talks about
8 religious education being in accordance with the
9 express wishes, if any, of the birth parents.

10 So if -- if a -- if a CPA wants to
11 provide religious teachings to a child that's
12 living with a family that it's supporting and
13 working with and the birth parents have not
14 expressed wishes about the nature of the religious
15 teachings that the children are meant to receive,
16 can the CPA do that? Can the CPA provide
17 religious teachings to -- to those children?

18 A. No. Any -- any religious -- anything
19 related to -- to -- to this matter needs to --
20 their -- the birth parents need to be -- need --
21 need to be approached and support.

22 Q. So could Miracle Hill, for instance,
23 could it encourage the families with which it
24 works to take children to church?

25 A. No, not without the -- not without the

EXHIBIT 8

Benefits of Fostering with Oasis

You Won't Do This Alone!

- Medicaid for the foster child
- Daily board rate provided by DSS
 - 24-hour on-call support
- Daycare vouchers provided by DSS
- **FREE** monthly home cleaning service
 - Respite care
- Dedicated experience support team for your family
 - Monthly foster care support group
- Service Coordinator for community resources and activities
 - Listening ear when you need it
- Family/Friend as an alternative caregiver
(YES, you can have a life!)



Exhibit
0011

EXHIBIT 9



Deposition of:
Eden Rogers

May 21, 2021

In the Matter of:

**Rogers, Eden, et al v. U.S. Dept. of
Health and Hu**

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION
Civil Action No. 6:19-cv-01567-JD

Eden Rogers, et al.,
Plaintiffs,

vs.

United States Department of Health and Human
Services, et al.,

Defendant.

VIRTUAL

DEPOSITION OF: EDEN ROGERS

DATE: May 21, 2021

TIME: 1:01 p.m.

LOCATION:

[REDACTED]
[REDACTED]

TAKEN BY: Counsel for Governor Henry McMaster

REPORTED BY: MICHELLE BAKER LEE,
Certified Court Reporter

Eden Rogers

May 21, 2021

Rogers, Eden, et al v. U.S. Dept. of Health and Hu

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(INDEX AT REAR OF TRANSCRIPT)

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1 A My wife's name and my name.

2 Q Both of you?

3 A Uh-huh.

4 Q Okay. How many bedrooms does it have?

5 A Four.

6 Q Okay. Prior to the current house, I think
7 in Taylors, did you rent or own that house?

8 A We rented that house.

9 Q Okay. You already told me approximately how
10 long you were there. I've already forgotten it. But
11 for the period of time that you were there you were
12 renting?

13 A Yes.

14 Q And then previously you had, I guess, two
15 other addresses in Greenville. Were those rented or
16 owned properties?

17 A Rented.

18 Q Okay. The house in Taylors prior to this
19 one that you rented, how many bedrooms in that house?

20 A Three.

21 Q Okay. Who else lived with you in that
22 residence?

23 A My wife, myself, and our children.

24 Q Okay. How many children?

25 A Two.

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1 Q Okay. Are they biological children of
2 either you or Brandy?

3 A Yes.

4 Q Of which?

5 A Me.

6 Q Okay.

7 A They're my biological children.

8 Q Okay. So are they from a prior marriage?

9 A Yes.

10 Q Okay. When was that? That's a poorly
11 worded question. When did you -- let me back up and
12 ask this in a way that's more sequential.

13 When did you and Brandy get married?

14 A End of 2015.

15 Q Okay. Prior to that when did you and Brandy
16 meet?

17 A We met in 2009, the end of 2009.

18 Q Okay. How did you meet?

19 A We were next-door neighbors.

20 Q Okay. And where was that?

21 A In St. Marys, Georgia.

22 Q Okay. So you met in 2009. When did you and
23 Brandy whether you call it, you know, develop a
24 romantic relationship or begin dating or when did that
25 occur?

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1 A I am going to need to count. We began
2 dating in 2000 -- the end of 2013.

3 Q Okay. So you knew Brandy from 2009 to 2013
4 approximately, began dating at that point. Did you
5 have an engagement thereafter?

6 A We had an informal engagement, I suppose.

7 Q And then you were married in 2015, you said?

8 A Yes.

9 Q Where -- geographically where did you get
10 married?

11 A In Greenville.

12 Q Okay. Because you were living in Greenville
13 at the time?

14 A Yes. Actually, we were technically
15 married -- the ceremony was in Pendleton, South
16 Carolina.

17 Q Okay. Where in Pendleton? I'm just
18 curious.

19 A There's an old farmhouse that --

20 Q Is it called Farmer's Hall? It's like on
21 the -- kind of the city plaza, the city square?

22 A No, it's a private property.

23 Q Okay. I was just curious. I grew up
24 spending a lot of time in Pendleton --

25 A Oh.

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1 Q -- so I was curious. It doesn't really
2 matter at all but just wondered.

3 Okay. So you -- and I'm sorry if I keep
4 kind of going over the same ground again but I'm
5 trying to learn as much as I can.

6 So you met Brandy in 2009, you -- as
7 neighbors. Did you continue as neighbors from 2009
8 through 2013?

9 A No. I don't recall when she moved but at
10 some point in that period of time she moved to
11 Jacksonville, Florida.

12 Q Okay. Obviously you must have stayed in
13 touch?

14 A Yes.

15 Q I guess explain a little bit -- so I guess
16 what I'm trying to figure out, between 2009 and 2013
17 there was -- was it like a professional relationship
18 or a friendship relationship or there was a distance
19 involved?

20 A Yes. We --

21 Q Tell me a little bit about that.

22 A We quickly became best friends after
23 leaving.

24 Q Okay. And in 2013 -- I'm sorry. In 2009
25 when you met, were you at that point single or were

1 you at that point married?

2 A At that point I was married and separated.

3 Q Okay. When -- when did that marriage begin?

4 A In 2006.

5 Q Okay. And when did it, like, finally
6 conclude in a divorce or a decree of divorce?

7 A I'm counting. One second.

8 Q Sure. Take your time.

9 A February of 2013.

10 Q Okay. And what was the name of your spouse
11 during that marriage?

12 A James Hoffmeyer.

13 Q Okay. When were -- when were your children
14 born?

15 A My first child was born May of 2009 and my
16 second was born in April of 2012.

17 Q Okay. Prior -- prior to that -- you were
18 married to James; is that right?

19 A Yes.

20 Q Prior to that were there any -- did you have
21 any marriage prior to that?

22 A No.

23 Q Okay. What's the highest level of education
24 or the highest degree that you've received?

25 A High school diploma.

1 Q So when you moved to Greenville it must have
2 been early 2015?

3 A Yes.

4 Q At that time in Georgia, whether by statute
5 or constitutional amendment, the state of Georgia did
6 not recognize same-sex marriage?

7 A Right.

8 Q And when you -- and South Carolina did as a
9 result of I think it was the Bradacs case in 2014.
10 And then a second ago when you said -- you referred to
11 the joke, you're talking about the Supreme Court --
12 the US Supreme Court's decision in Obergefell later in
13 2015?

14 A Yes.

15 Q I got all that?

16 A Yes.

17 Q Okay. I was pretty sure -- and it's hard,
18 right, especially in a written record. When we're all
19 talking, we probably know what we're talking about,
20 but the record, it's just typed words on it. So I
21 wanted to make sure all that subtext is -- makes sense
22 to whoever ends up reading this later.

23 Whose idea was it to sue Governor McMaster
24 and federal HHS and the other Defendants?

25 A I don't recall.

1 Q Okay. Did somebody suggest it to you?

2 A No. I don't recall as in I don't recall if
3 the idea initially came to myself or my wife.

4 Q I see.

5 A And that is what I mean by I don't recall.

6 Q Okay. Okay. Thank you for clarifying.

7 Did the two of you discuss it over a period
8 of time?

9 A Not really, no. And if by period of time
10 you mean years, obviously, no. We took time after
11 finding ourselves in the situation we were in being
12 denied, we took time to talk about it and discuss
13 what -- discuss our feelings and what we were, you
14 know, willing to do. And so by time if you mean
15 years, no. By time if you mean weeks, of course we
16 discussed it with each other, what we felt like we
17 needed to do.

18 Q Did you talk to anyone else other than
19 Brandy when you were weighing those options and
20 thinking through what you wanted to do?

21 A I do not recall the context of
22 conversations, but I was at the time confiding in our
23 pastor for, I guess you could say, some moral support.
24 This was -- this was very difficult for us so I was
25 having regular conversations with our pastor, like I

1 said, for moral support.

2 Q What is your -- what was the pastor's name?

3 A Lisa Bovee-Kemper.

4 Q And she's a pastor at the UU, Unitarian
5 Universalist Church you mentioned?

6 A Yes.

7 Q Okay. Was there anyone else that you talked
8 to about the situation?

9 A Before -- before we decided to move forward
10 or about being denied?

11 Q Let me -- I'll ask multiple questions, then.
12 Before you applied to Miracle Hill, did you
13 talk to anyone else other than Brandy about applying
14 to Miracle Hill?

15 A We did not talk to anyone else about
16 specifically applying to Miracle Hill. We had talked
17 to people, though, about wanting to foster and trying
18 to become foster parents.

19 Q Okay. Who had you talked to about that?

20 A It would have to be a very long list because
21 I believe everyone that knows us knew that we wanted
22 to foster. In detail we would talk to my kids' dad.
23 He's -- we're a very close-knit family so he's a part
24 of their lives and our lives, and he knew we wanted to
25 foster. He had said he wanted to be a father figure

1 to any children that we bring into the family
2 (indiscernible audio) another. My siblings have
3 always known we wanted to foster, our closest friends.
4 Before all of this, everyone that knew us knew that we
5 wanted to be foster parents.

6 Q Would it be fair to say -- and, again, don't
7 let me put words in your mouth but this is the easiest
8 way to ask the question. Would it be fair to say that
9 from the time that you and Brandy -- you moved in
10 together back in 2013 -- from even starting at that
11 time that you two were interested in and wanted
12 someday to be foster parents?

13 A Absolutely.

14 Q Okay. You mentioned a second ago that James
15 is still very involved.

16 A Yes.

17 Q Does he live in this area?

18 A He still lives in St. Marys, Georgia.

19 Q Okay. About how often do you see him in
20 person? Well, that's a bad question, right? Because
21 of COVID, nobody sees anybody anymore.

22 Prior to COVID about how often would you see
23 him in person?

24 A At least every couple months.

25 Q Okay. During COVID, let's say since early

1 2020 to the present, how often do you or your children
2 see him in person?

3 A It was -- there were about eight months
4 maybe nine months -- well, there were a number of
5 months in the beginning of COVID where he was not able
6 to visit because he's in the military and he had
7 orders -- no-travel orders. Since then he has been
8 able to visit more frequently. I'd say since November
9 he's visited four or five times with another visit in
10 the next month.

11 Q Okay. Why did your marriage to James end?

12 A I was really young when we got married and
13 we just realized that being married wasn't probably
14 the relationship that best suited us. We still wanted
15 to have a relationship and be friends and co-parent
16 and share, you know, our lives together, but we
17 realized that being married and having that sort of
18 relationship was not -- we weren't best suited for.

19 Q Was it an amicable separation and divorce?

20 A Yes, absolutely. We did it all ourselves.

21 Q At the time you married James, did you
22 consider yourself to be heterosexual?

23 A Yes.

24 Q And what do you consider your sexual
25 orientation to be now?

1 A That's complicated. I don't know if you're
2 looking for this in-depth of an answer, but there is a
3 term called demisexual which it describes someone that
4 doesn't fall in love with a person with a specific
5 gender. I feel like I fall in love and am attracted
6 to someone's brain and the -- the intellectual
7 connection that you can have with someone and the
8 emotional connection.

9 So, yeah, I -- I don't consider myself
10 specifically -- I'm not heterosexual but I don't think
11 it's fair to say, like, that I am specifically a
12 lesbian because I could have just as easily fallen in
13 love with somebody of another gender that had the same
14 emotional and intellectual connection with me.

15 Q And just to make sure I heard the word right
16 and the court reporter, did you describe it as
17 demisexual, like d-e-m-i?

18 A Yes.

19 Q Okay. Is that different than bisexual?

20 A I -- I find it to be different.

21 Q In what way?

22 A Well, bisexual implies that you are only
23 sexually attracted to -- or you are sexually attracted
24 to men or women, male or female. And I recognize that
25 those -- those two things have nothing to do with

1 Q So the text of the tweet and the image in
2 the tweet are, I think, either very close or maybe
3 identical. This one was tweeted out by SC Equality --

4 A Oh.

5 Q -- (indiscernible audio) the ACLU of South
6 Carolina. I think that's -- that's the difference.
7 But I think you're right that they're very similar.

8 A Okay.

9 Q Had you ever seen this tweet?

10 A No.

11 Q Are you familiar with SC Equality?

12 A I've heard of it.

13 Q Okay. Have you ever spoken with anyone from
14 there?

15 A To be fair, probably, yes, since all of
16 this, but before the Complaint was filed, no.

17 Q Okay. You can set those exhibits aside.

18 In early 2019 it was national news that
19 federal HHS had granted a waiver specifically to
20 Governor McMaster, to South Carolina related to
21 Miracle Hill. It was in the Washington Post, it
22 was -- it was all over the news. Were you aware of
23 that at that time?

24 A No.

25 Q Okay. At the time you applied to -- you

1 submitted an application to Miracle Hill, were you
2 aware that they worked only at that time with
3 Protestant Christian foster parents?

4 A No, I wasn't.

5 Q Did you know at that time -- and when I say
6 "at that time," to be a little bit more precise we're
7 talking about like April and May approximately of
8 2019, around the time you applied. At that time did
9 you know that the South Carolina Department of Social
10 Services, SCDSS, would work with any qualified foster
11 parent or prospective foster parent of any religion or
12 no religion and any marital status?

13 A I actually was aware of that. However, I
14 have had lots of contact with a number of people that
15 I do not know personally that worked for DSS through
16 the school that I taught at. We would go through
17 regular evaluations. And I had been -- I guess I had
18 heard a number of times that going through them was
19 lengthy and not easy, and the agencies in the area had
20 the ability to shorten the process significantly and
21 do a very thorough job with a lot of support. So I
22 was aware that that was possible, but how realistic it
23 was as far as becoming a foster parent anytime soon, I
24 was not confident in that.

25 Q Okay. And when -- just to make sure I am

1 hearing what you're saying and understanding, right,
2 when you say through SCDSS, I think you said the
3 process was lengthy. Are you talking about the
4 process of becoming licensed as a foster parent, the
5 application and licensure process?

6 A Yes.

7 Q And you also said that your understanding
8 was that other agencies -- you're talking about
9 private foster agencies?

10 A Private organizations, yeah.

11 Q Okay. And you said agencies plural, that
12 there's more than one in your area and in the state
13 generally but specifically in your area?

14 A Yeah, I'm assuming so. I only know of
15 Miracle Hill because they're the only one that
16 advertises so -- but I'm assuming at this point that
17 there's more than one.

18 Q And maybe you just answered the last -- so
19 how did you decide -- you'd explained why you didn't
20 at the time want to apply directly with DSS. How did
21 you decide on Miracle Hill instead of one of the --
22 one of the other private agencies in your area?

23 A They're the only one that I knew about.
24 Every day on the way to work I passed billboards and,
25 you know, little signs that you stick in the grass

1 that line Wade Hampton saying become a foster parent,
2 contact Miracle Hill today. Like every single day.
3 And, I mean, they as far as -- like they were who you
4 think of here when you think of, you know, fostering a
5 child --

6 Q (Indiscernible audio) -- I'm sorry, I didn't
7 mean to interrupt.

8 A They are just the only ones that I knew of.

9 Q Okay. How did you -- how and when did you
10 first make contact with Miracle Hill?

11 A When we applied. Well, my wife had made
12 phone calls to them prior to ask about the application
13 process and if we needed to come in or do it online,
14 those things. I was never in contact with anyone
15 prior to our application.

16 Q Okay. So you hadn't spoken with anyone on
17 the phone but Brandy had?

18 A (Nods head.)

19 Q Okay. Do you -- and if you don't know,
20 that's fine, you don't know because I can ask her,
21 too. Do you know how many -- how many phone calls she
22 had, approximately?

23 A I don't know.

24 Q Okay. That's fine.

25 Do you know when you submitted -- I think

1 you said it was online. Do you know when you
2 submitted an application or a form or -- I'm asking
3 that question wrong. Let me back up.

4 You said it was -- the process was online.
5 What was the process?

6 A Filling out an application.

7 Q Okay. Is it -- was it like a PDF form or
8 like a website, a web page that you'd fill in
9 information and click submit?

10 A I don't recall.

11 Q Okay. That's fine. Do you remember when
12 you filled that out in whatever form it was and
13 submitted it?

14 A I don't remember.

15 Q Okay. And you said -- earlier this
16 afternoon you said that -- I don't remember your exact
17 wording but that the response from Miracle Hill was
18 like really quick?

19 A Uh-huh, yes.

20 Q Can you give me a time frame on that?
21 What -- do you have a sense or a recollection of --

22 A Within about a couple of days.

23 Q Okay.

24 A Maybe four but less than a week.

25 Q Okay. Do you think a private foster care

1 agency should take longer than that to reply to an
2 applicant?

3 A Well, I think what I anticipated was them
4 to -- for them to see if we were qualified to foster,
5 as in home studies and, you know, interviews and
6 references and all of those things. I did not realize
7 that they would find us disqualified to foster based
8 on a simple form with basic information.

9 Q And let me -- let me drill in on that a
10 little bit. Did they -- did Miracle Hill find you
11 disqualified or unqualified to be a foster parent?

12 A They denied our ability to be able to even,
13 like, be licensed to foster with them. Like they
14 denied our ability to have their services as far as
15 the entire process from beginning to end with
16 fostering.

17 Q But they didn't stop you from applying
18 elsewhere to be a foster parent, did they?

19 A No.

20 Q Did they suggest to you other private
21 agencies or public agencies that would work with you
22 to become a foster parent?

23 A I believe that they did send my wife an
24 e-mail. I don't know what the contents of that was.
25 They might have called her. It was not my

1 it's -- it's been -- we gave courtesy calls and then
2 they may or may not have checked in on us, but there's
3 nothing for us to share because there's never any
4 news. But, yeah, it's all -- I mean, it's all
5 basically the same.

6 Q Okay. Give me just a minute to glance
7 through notes I had here.

8 During the time leading up to your decision
9 to apply to Miracle Hill at the time where Brandy made
10 a couple of -- I say "a couple of" and I don't want to
11 put words in your mouth. I think she made a phone
12 call. It may have been more than one and she can
13 probably remember better than you can. But there was,
14 you know, one or more phone calls that she made, there
15 was internal discussion between the two of you, and
16 you were -- were you at that time -- did you talk to
17 Cindy and Lisa Bovee-Kemper about sort of that
18 decision process that you were going through at that
19 time?

20 A Do you mean did we share with them that,
21 like, we were ready and that we were moving forward
22 with trying to become foster parents, like the next
23 step since applying?

24 Q Yeah, let's start there. Yeah.

25 A Then, yes.

1 Q Okay. Let me make it a little more precise,
2 then. Did they know that you were thinking about or
3 planning to or contemplating applying to Miracle Hill
4 specifically?

5 A I'm not sure.

6 Q Okay. You just don't remember?

7 A Yeah, I don't remember.

8 Q Okay.

9 MR. COLEMAN: I think those are all the
10 questions that I have for right now. It is
11 possible that some of the other lawyers may
12 themselves have questions, so I'll give a chance
13 for the others to ask what they need to ask. But
14 I am, at least for the time being, done.

15 MS. NEWMAN: This is Christie Newman. I
16 don't have any questions.

17 MS. DUNN: Jonathan, do you have questions?

18 MR. RIDDLE: Yeah, this is Jonathan. I
19 don't have any other questions.

20 MS. DUNN: I just have a few. That's all
21 the Defendants' attorneys, correct?

22 MR. COLEMAN: Yeah. Me, Christie,
23 Jonathan --

24 MS. DUNN: I don't want to be overlooking
25 anybody.

1 MS. NEWMAN: I think that's everybody.

2 MS. DUNN: Okay. Well, I just have a few
3 questions.

4 EXAMINATION

5 BY MS. DUNN:

6 Q When you received the e-mail that we
7 discussed earlier in this deposition from Miracle
8 Hill, was it your clear understanding that your
9 application to foster through them had been rejected?

10 A Yes.

11 Q And I believe you answered some questions
12 from Mr. Coleman dealing with what kinds of monies
13 that Miracle Hill might receive from the state,
14 correct? Do you have any information at all about
15 what the actual contractual relationship is in terms
16 of finances between South Carolina Department of
17 Social Services and Miracle Hill?

18 A No. All I know is that they receive federal
19 and state funding.

20 Q But you don't know what funding or what?

21 A No.

22 Q And I believe you indicated that the times
23 that you've talked in public in the press conference
24 and in Dallas, you're talking about the rejection was
25 hard to do?

1 A Sure.

2 Q But it's not so much -- you were talking
3 about a past rejection, right?

4 A Right.

5 Q When you indicated that you were reluctant
6 to apply to other fostering agencies because you
7 didn't want to experience new rejection, was that a
8 different kind of pain?

9 A Yes.

10 Q Could you contrast them for us just to be a
11 little clearer?

12 A Am I allowed to use a metaphor?

13 Q Yes.

14 A Okay. If I skin my knee, that is a pain.
15 And then I go to clean it and it's likely to cause
16 more pain. Rubbing alcohol hurts when it's raw. But
17 I would still go clean it and put a Band-Aid on it
18 rather than go and knowingly intentionally risk
19 skinning my knee more and more and more times. So it
20 is a different kind of pain because, I mean, you just
21 don't want to knowingly walk into risk after risk
22 after risk having to go through what you just went
23 through and you know it's uncomfortable.

24 I had never done all these interviews
25 before. I had never talked to the press before. I

1 had never done anything like this. I was not sure,
2 did not know how uncomfortable it might be, but I knew
3 how uncomfortable and how hurtful it was to be
4 rejected like that.

5 Q And, again, in response to questions from
6 Mr. Coleman, you indicated that you've -- you have
7 dealt with epilepsy for some time. Has your epilepsy
8 ever affected your ability to parent children?

9 A Oh, absolutely not.

10 Q You also talked about concussions, hence the
11 headaches and the effects that you had from those
12 events of your past. Have any of those head injuries
13 ever affected your ability to parent?

14 A No.

15 Q And you identified Lisa as the -- what, is
16 it Bovee-Kemper?

17 A Yeah.

18 Q Let me get these names right. Lisa is the
19 minister at UU Church and Cindy is her wife?

20 A Yes.

21 Q Is Cindy also a minister?

22 A Yes.

23 Q And what denomination is Cindy a minister
24 in?

25 A I think it's Church of Christ or something.

1 I know she's -- she's Christian.

2 Q Is she Protestant Christian?

3 A I believe so.

4 MS. DUNN: I have no further questions.

5 MR. COLEMAN: Nor do it. That may be the
6 conclusion of your first deposition. I think the
7 court reporter wants us to stay on the record to
8 place our orders but --

9 THE COURT REPORTER: I do. Ms. Dunn, is she
10 going to read and sign or waive?

11 MS. DUNN: She's going to read and sign.

12 THE COURT REPORTER: Okay. Are you handling
13 the read and sign or should I send it to the
14 witness directly?

15 MS. DUNN: You shouldn't send it to me. I'm
16 a lame duck.

17 Currey, should they send it to you?

18 MS. SCHINDEL: Why don't they send it to us
19 because we'll order the transcript, also, so we
20 can have it all come to us.

21 MS. DUNN: Okay. So it should go to
22 Cravath, the Cravath firm. Send it to you,
23 Rebecca?

24 MS. SCHINDEL: Right, yeah. I sent you my
25 full information for purposes of ordering the

1 transcript, also.

2 THE COURT REPORTER: Okay. And, Mr.
3 Coleman, I'm assuming you're ordering, and then I
4 just need everyone's copy orders on the record,
5 how you like those, hard copies, electronic.

6 MS. NEWMAN: This is Christie Newman. I
7 like a e-trans, please.

8 THE COURT REPORTER: Okay.

9 MR. RIDDLE: This is Jonathan Riddle. Yeah,
10 we just need the e-tran.

11 THE COURT REPORTER: All right.

12 MS. SCHINDEL: Rebecca Schindel and we'll
13 also do the e-transcript.

14 THE COURT REPORTER: Okay. Mr. Cook, did
15 you want a copy?

16 MR. COOK: No, no, not directly. We're
17 co-counsel with Rebecca.

18 THE COURT REPORTER: Okay. And I'm not sure
19 if Maia is co-counsel as well.

20 MS. DUNN: She's with us.

21 MR. COOK: Maia's with Lambda Legal with me
22 so, yes, she's part of Plaintiffs' co-counsel.

23 THE COURT REPORTER: All right. Very good.
24 I think that's it right now.

25 MS. SCHINDEL: In terms of the transcript,

EXHIBIT 10



Deposition of:
Brandy Welch

May 24, 2021

In the Matter of:

**Rogers, Eden, et al v. U.S. Dept. of
Health and Hu**

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Brandy Welch
Rogers, Eden, et al v. U.S. Dept. of Health and Hu

May 24, 2021

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Eden Rogers, et al.,
Plaintiffs,

vs.

United States Department of Health and Human
Services, et al.,

Defendant.

VIRTUAL

DEPOSITION OF: BRANDY WELCH

DATE: May 24, 2021

TIME: 9:04 a.m.

LOCATION:

[REDACTED]
[REDACTED]
[REDACTED]

TAKEN BY: Counsel for Governor Henry McMaster

REPORTED BY: MICHELLE BAKER LEE,
Certified Court Reporter

Brandy Welch
Rogers, Eden, et al v. U.S. Dept. of Health and Hu

May 24, 2021

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10 (INDEX AT REAR OF TRANSCRIPT)

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1 injury by working with DSS instead of Miracle Hill, is
2 it?

3 A I don't think that DSS is working with the
4 general public as far as I know. I thought they were
5 doing like just like -- what's it called when they
6 work with just families? Like kinship foster care is
7 what I thought. And also I believe that they're --
8 from what I understood at the time that they were,
9 like, a long, long wait to -- to be able to help DSS.
10 So our understanding was that you could -- you could
11 help faster going with a big agency like Miracle Hill.

12 Q Let me ask a couple follow-ups just to make
13 sure that I understand what you were saying.

14 So at the time you filed -- well, at the
15 time you applied to Miracle Hill back in, I think it
16 was, the end of April 2019, you -- you're saying now
17 you didn't realize at that time that you could work
18 directly with South Carolina DSS?

19 A Well, I knew that we could but I had heard
20 that it would take a long time to be able to go
21 through DSS and be able to start helping children.

22 Q Okay. Where did you hear that?

23 A Just general conversation with people that
24 we know.

25 Q Okay. And so I guess my question, then, is

1 if it turns out that was incorrect, if it turns out
2 those people were mistaken and DSS was just as fast as
3 Miracle Hill then it wasn't any disadvantage, it
4 wouldn't have been any disadvantage to work with DSS
5 instead of Miracle will, would it?

6 A Well, I believe that Miracle Hill provides
7 additional services that are helpful for prospective
8 foster parents. So, like, we wanted to go with the
9 biggest agency in our area.

10 Q Okay. So, yeah, I guess there's -- I guess
11 there's two things there that you felt like you
12 were -- you would have been missing out on. There was
13 the speed or the length of time it could take to get
14 licensed, and the I guess -- I don't remember the
15 exact phrase you used but, in general, the -- for the
16 services or the types of support available?

17 A Right.

18 Q Let's stick with that first one for a
19 second, though, the length of time it takes to get
20 licensed.

21 If it turns out that DSS or other private
22 agencies could get you licensed by the state --
23 because everybody has to be licensed by the state.
24 They're the only ones who can grant the license. So
25 if it turns out that DSS or another private agency

1 could have gotten you licensed as fast as Miracle Hill
2 could have done it, then working with DSS or another
3 private agency as far as length of time goes, working
4 with DSS or another private agency wouldn't have been
5 any disadvantage to you, would it?

6 A Well, the problem with that is that there's
7 a huge number of kids that are with Miracle Hill that
8 need foster homes. It's advertised regularly on the
9 radio and it was at the time at least around here. I
10 don't really listen to the radio much now because we
11 don't drive very much because we work from home.

12 Q Sure.

13 A But previously it was on the radio about how
14 many homes they needed. So that was like -- you know,
15 we were hearing it all the time that they needed so
16 many foster parents, so that was our go-to. Like
17 that's who we knew of and that's who we went with.

18 Q Do you know whether DSS also has an even
19 larger number of kids in its care that need foster
20 homes?

21 A I do not.

22 Q Do you know if anywhere maybe in your
23 Complaint it says that?

24 A I do not.

25 Q So let me go back again, though, because I'm

1 still trying to figure out this piece about the length
2 of time.

3 If DSS or another private agency could have
4 gotten you from application to licensure as fast or
5 even faster than Miracle Hill then there's no time
6 disadvantage, there's no speed disadvantage to working
7 with DSS or another agency, is there?

8 A I don't know. Could they have done it as
9 fast?

10 Q Well, I don't know. We haven't gotten to
11 talk to DSS yet. We'll -- there'll be a deposition of
12 DSS folks coming up and we'll be able to find out what
13 they think.

14 But I guess what I'm asking is in the sense
15 of a question, if -- and we'll find out -- if DSS or
16 another private agency could get you from application
17 through licensure as fast or faster than Miracle Hill
18 could have done it then there's no disadvantage to you
19 to working with DSS or another private agency, is
20 there?

21 A Well, there is still a disadvantage because
22 of the services they're offering by Miracle Hill.

23 Q And we'll -- yeah, we'll definitely talk
24 about that.

25 A So you're -- but you're saying there's no

1 disadvantage. There is --

2 Q Okay.

3 A -- in my opinion.

4 Q I'll rephrase it a little bit more narrowly.

5 A Okay.

6 Q If it turns out that DSS or another private
7 agency could get you from application through
8 licensure as a foster family, a foster parent just as
9 fast or faster than Miracle Hill could have done it
10 then from a length of time standpoint there is no
11 disadvantage to working with DSS or another private
12 agency, is there?

13 A I don't know. I mean, it really depends on
14 if they could have done it as fast. But it seems
15 irrelevant to me because that's -- that's not who we
16 applied with and Miracle Hill is known to be the
17 largest agency in the state.

18 Q Right. And so let me ask the question
19 again, though, because your job is to answer the
20 questions here in a deposition, not to decide if you
21 think it's relevant or not. And I'm still just trying
22 to get an answer to this. Let me try to phrase it a
23 different way.

24 In your Complaint you said that one of the
25 disadvantages you suffered by not being able to work

1 Twitter?

2 A I mean, in the last month, zero times. I
3 used to look at it, I'd say, maybe like once a month,
4 maybe like -- yeah, not very often.

5 Q How often do you think you post on Twitter?

6 A It's been a long time. Not often at all.

7 Q Okay. Did you used to be more of an active
8 user?

9 A I've never really been extremely active. I
10 used to maybe, like, share stuff that people I
11 followed, like, posted, but I didn't really write my
12 own posts very often.

13 Q Who -- like what kind of stuff and whose
14 posts would you share?

15 A I don't recall offhand.

16 Q Okay. Have you ever -- on Twitter since
17 applying to Miracle Hill till now, have you ever
18 removed, deleted, or taken down anything related to
19 fostering, foster care, Miracle Hill, or the lawsuit?

20 A No.

21 Q Eden doesn't have a Twitter account, does
22 she?

23 A I don't think so.

24 Q Do you remember seeing in January, February,
25 March of 2019 -- so this would be the couple of months

1 leading up to the time you applied to Miracle Hill.
2 Do you remember seeing -- well, let me ask it this
3 way, to back up. On Twitter do you follow the ACLU or
4 Lambda Legal or organizations like that?

5 A I know I follow Lambda Legal. I don't know
6 about ACLU for sure.

7 Q Okay. So do you happen to remember back in
8 the first couple of months of 2019 before you applied
9 to Miracle Hill seeing tweets from ACLU, Equality SC,
10 and Lambda talking about how they are looking for
11 people who have applied to Miracle Hill and been
12 turned away; did you ever see any of those?

13 A No, I didn't follow any of them at that
14 time.

15 Q Okay. When did you start following them?

16 A I would assume that I started following
17 Lambda at some point after we filed the case.

18 Q Okay. But you don't remember for sure?

19 A No, I don't.

20 Q Okay. You and -- you and Eden live with two
21 daughters; is that right?

22 A We have two children, yes.

23 Q And those are her biological daughters from
24 a prior marriage, right?

25 A Yes.

1 Q Do you have any children, biological
2 children, of your own?

3 A No.

4 Q Do you have any children other than those
5 two?

6 A No.

7 Q And are -- have you adopted them or you
8 consider them to be children but have not sort of gone
9 through the legal process?

10 A No, because they have a dad so --

11 Q Okay.

12 A Yeah.

13 Q So you are -- I guess you're sort of like a
14 parent figure but in a technical legal sense not a
15 parent of them; is that right?

16 A Correct. Sure.

17 Q And where do y'all live?

18 A [REDACTED]

19 Q Okay. Where at? What's your address?

20 A [REDACTED].

21 Q Okay. And I think you-all moved there not
22 too long ago, right?

23 A In October.

24 Q Prior to that you were at a house in Taylors
25 that you rented?

1 A Correct.

2 Q Okay. And prior to that a couple -- or I
3 think there were a couple of moves once you came to
4 South Carolina before you got to where you're at now.
5 And you own the house you're at now, right?

6 A That's correct.

7 Q Are you taking any medications that could
8 affect or give you any difficulty with your memory
9 today?

10 A No.

11 Q Anything else? Have a sleepless night or
12 anything like that that might affect your ability to
13 remember accurately and testify truthfully today?

14 A No.

15 Q Are you taking any prescription medications?

16 A Yes.

17 Q I think the audio cut out there. I
18 couldn't --

19 A Oh. Yes, I am.

20 Q Okay. What?

21 A You want the full list?

22 Q Sure.

23 A Okay.

24 Q Well, again, I -- let's start on it and
25 depending on how long it goes, I reserve the right to

1 Q Have you ever -- let's say that sort of --
2 that same period of time, let's say the last ten
3 years, have you seen any counselors or therapists?

4 A Yeah. Eden and I went to counseling for --
5 this was a few months before we got married.

6 Q Okay. And what kind of counseling was it?
7 Was it like pre-marriage counseling?

8 A Well, I mean, that's what we were using it
9 for. It was just a regular, like, counselor that we
10 went to see to make sure that like -- like we were --
11 not that we were ready to be married because we were
12 definitely ready but just to work through some, like,
13 communication practicing. Like she worked through,
14 like, conflict resolution and it was basically just
15 some relationship counseling and stuff.

16 Q Okay. Where was that?

17 A I don't recall. It was here in Greenville
18 but I don't recall what --

19 Q That's fine. I don't need the name.

20 A Okay. Yeah.

21 Q So that would have been in 2015, early 2015,
22 sounds like?

23 A Yeah, yeah.

24 Q Anything since then; have you seen a
25 counselor or therapist for anything?

1 A No, I haven't.

2 Q How did you decide to file this lawsuit?

3 A Eden and I had had a long talk about, like,
4 how we felt afterwards. And I think, like, honestly
5 for me it was I had never been discriminated against
6 or felt discriminated against in any way basically my
7 whole life. And I think that that feeling that
8 happened from that like -- and realizing that it's
9 such a marginalized group of people that are even
10 allowed to use Miracle Hill kind of brought us to that
11 conclusion.

12 Q When you and Eden lived together as a couple
13 in Georgia, you couldn't get married, could you?

14 A No, we couldn't get married anywhere. I
15 think when we first lived together -- well, maybe, we
16 could have. We could have somewhere, yeah. But, no,
17 we couldn't get married.

18 Q Not in Georgia, at least?

19 A Right, yeah, that's true.

20 Q And you didn't feel like that was being
21 discriminated against?

22 A Sure. I mean, yeah.

23 Q Okay. That discrimination, though, didn't
24 stop you from moving to South Carolina where you could
25 get married and getting married, right?

1 A Right. I mean, we didn't move to South
2 Carolina so we could get married, though, but, yeah.

3 Q But when you got here you took advantage of
4 the chance to get married?

5 A Sure. Yeah, I mean, you could get married
6 anywhere by the time we lived here.

7 Q So you moved here before the decision in
8 Obergefell, right? You moved to South Carolina in --

9 A Well, we didn't get married until after that
10 decision, though.

11 Q Okay.

12 A I don't know -- I don't know timing-wise
13 when we -- if we moved here before or after, but we
14 didn't get married until after.

15 Q What was the -- what's your anniversary date
16 or the date of your wedding?

17 A November 11, 2015 -- or November 28th -- I'm
18 sorry -- 2015. Don't tell Eden.

19 Q Unfortunately, this is now part of the
20 record.

21 A Awesome.

22 Q The good news is let the record reflect you
23 caught your mistake very quickly and it was just a
24 slip of the tongue.

25 But I guess my point was the fact that you'd

1 been denied the ability to get married by Georgia
2 didn't leave you so scared and afraid that you never
3 got married, did it?

4 A No, we weren't -- I mean, we weren't trying
5 to get married yet when we lived in Georgia. Like, so
6 it didn't -- we weren't like -- I mean, obviously we
7 had plans to get married at some point but that wasn't
8 where we were at at that point so --

9 Q And obviously you didn't go down to the
10 clerk of court in Georgia, ask for a marriage
11 certificate and get told no?

12 A Right. I mean, we weren't even in the
13 planning stages of getting married yet.

14 Q You weren't literally denied but you --

15 A Correct.

16 Q A better way to phrase it is the fact that
17 you could not have been, the state of Georgia at that
18 time wouldn't, didn't think you should be allowed to
19 get married, correct?

20 A Yes.

21 Q But when the opportunity became available,
22 you took it?

23 A Once we were ready to get -- I mean, we were
24 ready to get married, not because it was an
25 opportunity to take.

1 Q Yeah. I'll phrase it a little bit
2 differently. Subsequently when you were ready to get
3 married and you could, you did?

4 A Yes.

5 Q So I guess my question is this: You applied
6 to Miracle Hill and they referred you either to DSS or
7 to, I think, eight other private agencies. You didn't
8 call any of those other agencies, did you?

9 A No.

10 Q And you didn't even look at their websites
11 to see if they would work with you, did you?

12 A No.

13 Q And you know that Lisa and Cindy
14 Bovee-Kemper, a same-sex married couple who couldn't
15 work with Miracle Hill, they got licensed as foster
16 parents in South Carolina through some agency, right?

17 A Yes. I don't -- I don't know when they did
18 that, though, but, yeah.

19 Q But at some point in between 2017 and now,
20 they did?

21 A Right, that's correct.

22 Q And you want to be a foster parent, right?

23 A Yes.

24 Q So why, knowing that there is an opportunity
25 and availability to be licensed as a foster parent,

1 Why don't we go off the record. Let's take maybe
2 a ten-minute break. I think that would be ample
3 for me to be ready to go again, and we can come
4 back on in about ten minutes.

5 I'll just remind you, even though we're off
6 the record you're still under oath and the
7 deposition is still open. So anyone or anything
8 that you talk about or do during the next ten
9 minutes I can still ask you about and you have to
10 tell me. Once we come back on the record you're
11 still under oath and you still have to keep
12 testifying truthfully. Sound good?

13 THE WITNESS: Yep, sounds good.

14 MR. COLEMAN: Let's go off at 10:07. We'll
15 be back at 10:17.

16 (Break taken from 10:07 a.m. to 10:18 a.m.)

17 MR. COLEMAN: All right. So we're back on
18 the record at 10:18.

19 BY MR. COLEMAN:

20 Q I think we're -- I think the end is in
21 sight. I won't keep you here all morning much less
22 all day, but I do have a couple of -- a couple more to
23 ask.

24 When we talked a little bit earlier, I asked
25 you about how you decided -- after receiving the

1 e-mail from Miracle Hill in response to your
2 application, I asked you how you decided to file the
3 lawsuit and you talked a little bit about that. Who
4 did you talk to as you were wrestling through that
5 process?

6 A Eden.

7 Q Anybody else?

8 A That day, no, just Eden and I. Like, I
9 mean, we talked about it, like about making the
10 decision, like, between the two of us.

11 Q The decision of whether you wanted to
12 proceed with filing a lawsuit?

13 A Yeah.

14 Q How --

15 A Well, I mean, I don't know if we knew that
16 it was going to be a lawsuit yet but -- but with
17 talking to Currey.

18 Q Okay. And don't tell me any conversations
19 you had with Currey or other lawyers. That's all
20 confidential stuff but --

21 A Okay.

22 Q -- I guess I'm kind of just trying to sort
23 of get a sense of -- so you got the e-mail back from
24 Miracle Hill. And so the first conversations you were
25 having with Eden were -- you said it wasn't

1 necessarily about a lawsuit at that point. I guess
2 what were you talking through?

3 A I mean, we talked about how it felt, like,
4 to get that e-mail. I think, like, I've never -- I
5 guess, like, I've always felt fairly privileged. I
6 don't think I realized it until this happened that --
7 I don't know, being white and middle class in the US
8 like, you know, I haven't really faced much
9 discrimination, even as being gay for as many years as
10 I have been gay really hadn't run into any issues.

11 But I think it was -- I mean, I instantly,
12 like, felt really sick to my stomach and upset like
13 because it had never happened and I know what kind of
14 parents we are, and I guess I just didn't see it going
15 that way like -- so, yeah, like, we talked about how
16 that felt and what we felt like we should do.

17 Q Okay. Whose idea was it, then, to file a
18 lawsuit?

19 A I mean, it was -- it came to that like
20 having the discussion with Eden and I and Currey.

21 Q Okay. And, again, I don't -- I'm not trying
22 to ask a conversation that you had with --

23 A Sure.

24 Q But was it -- was it your idea or Eden's
25 idea like -- that you came up with it like we could

1 sue?

2 A I mean, we, like, just mutually talked about
3 it. I mean, it wasn't like her idea or my idea.
4 We -- it was a mutual decision that we needed to do
5 something to try and change this so we decided
6 together.

7 Q Okay. But it was between the two of you
8 sort of jointly that the idea of filing a lawsuit had
9 its origination; is that right?

10 A Well, I mean, yeah, yeah. Well, I mean,
11 we -- like, we talked about what our options would be
12 and obviously a lawsuit is one of those options. And
13 so, yeah, but that idea originated with us, yes.

14 Q Did you talk to Cindy or Lisa Bovee-Kemper
15 about it?

16 A Before or after?

17 Q Well, let's start with before sending in the
18 application. Did they know you were applying to
19 Miracle Hill?

20 A Yeah, they knew we were applying to Miracle
21 Hill.

22 Q And did they encourage you to do that?

23 A Yes.

24 Q Okay. And they didn't tell you that -- that
25 they knew that Miracle Hill wouldn't work with

1 Unitarian Universalists or same-sex couples?

2 A No. Like they -- like they're the ones who
3 introduced us to Currey so we -- I think we knew that
4 there was a chance, but, like, honestly I still didn't
5 feel like that was ever going to happen just because I
6 know us as parents and I guess I never had really
7 faced a whole lot of rejection in my life. So, like,
8 I think I knew it was a possibility but I didn't know
9 it was guaranteed by any means.

10 Q When did they introduce you to Currey?

11 A I don't recall.

12 Q Was it before you applied to Miracle Hill or
13 after?

14 A It was before.

15 Q And had you talked to -- talked on the phone
16 or e-mails with Currey before applying?

17 A I believe Eden did. I don't think that -- I
18 don't recall talking to him beforehand but I think
19 that Eden did.

20 Q Okay.

21 A I may have. I just don't recall for sure.

22 Q Okay. Was Currey your first point of
23 contact to the people that eventually became your
24 lawyers?

25 A Yes.

1 bullet-point list. I think it was nine other groups.
2 That e-mail never said anything about sexual
3 orientation, did it?

4 A No, it did not.

5 Q Or same-sex marriage?

6 A No, it did not.

7 Q What is your sexual orientation?

8 A Lesbian.

9 Q And you said something earlier this morning.
10 I don't remember exactly what it was. But you said
11 something to the effect of that you hadn't experienced
12 a lot of difficulty, you led sort of a privileged
13 American upper middle-class lifestyle, and I think you
14 said even after -- even after identified as a gay or
15 lesbian person, which made we wonder, like, at what
16 point -- at what point did you identify as being
17 lesbian?

18 A Maybe 1998 I think is -- yeah, yeah, that's
19 about -- around that time frame.

20 Q And give me a ballpark. Like how old were
21 you at the time?

22 A Oh, probably 19 or 20.

23 Q Okay. I just wasn't sure from your previous
24 answer if there had been a period of life where you
25 did not identify as LGBTQ and then a later period of

1 life when you did and sort of when that happened
2 generally. So around kind of college age, it sounds
3 like?

4 A (Indiscernible audio.)

5 Q Your audio cut out again.

6 A Yes. Can you hear me?

7 Q I can now.

8 MR. COLEMAN: I think those are all the
9 questions I have for right now, though as all
10 lawyers do in all (indiscernible audio), I
11 reserve the right to ask a few more after -- and
12 I think of some more after the other lawyers have
13 their say. So I'm going to stop for now.
14 Christie may have some questions, Jonathan may
15 have some questions, Susan may have some
16 questions, and you'll answer those. If I have
17 any follow-ups, I'll ask them then.

18 MS. NEWMAN: Okay. Thank you. This is
19 Christie. I have no questions.

20 MR. RIDDLE: This is Jonathan. I also have
21 no questions.

22 MS. DUNN: And I'd like to take just a brief
23 break to check in with my colleagues and then
24 come back. Can we do that?

25 MR. COLEMAN: What do you think, five

1 minutes? Ten?

2 MS. DUNN: Yeah, I think that's fine.

3 MR. COLEMAN: Five minutes?

4 MS. DUNN: Yeah.

5 MR. COLEMAN: Be back at 10:53-ish?

6 MS. DUNN: Okay. Actually, give me ten.

7 MR. COLEMAN: All right. We'll call it ten.

8 MS. DUNN: Okay. We'll be back then.

9 (Break taken from 10:48 a.m. to 10:58 a.m.)

10 EXAMINATION

11 BY MS. DUNN:

12 Q Brandy, just a few questions. How did it
13 make you feel to know that your state government was
14 seeking permission to allow Child Placing Agencies to
15 discriminate against people like you?

16 A It makes me feel like disgusted or really
17 upset because, yeah, I mean, it's -- it's a horrible
18 feeling to feel like people like me -- and by people
19 like me I mean loving parents who already have two
20 children, who are phenomenal humans, aren't given the
21 opportunity to bring children to our house and be able
22 to help them in a way that we would love to be able to
23 do.

24 Q And, Brandy, when a child is placed in
25 foster care, is it your understanding that it's the

1 state that is responsible for their care, that they're
2 in the custody of the state?

3 A Yes.

4 Q And so that if Miracle Hill is providing
5 services for foster children, they're doing it because
6 it's a government function that they're taking over?

7 A Right.

8 Q And when you received the e-mail from
9 Miracle Hill, was your understanding that that e-mail
10 meant that Miracle Hill would not consider your
11 ability to parent?

12 A Yes.

13 Q And that Miracle Hill, based upon the
14 information on a simple online filing, decided you
15 were not Christian?

16 A Yes.

17 MS. DUNN: I have no further questions.

18 EXAMINATION

19 BY MR. COLEMAN:

20 Q I'll have a few follow-ups. We won't let
21 you -- we won't let you go too early but I think we'll
22 get you out of here in time for lunch.

23 Why don't we do this: Let me add another
24 exhibit that we can look at together.

25 A Okay.

1 Q Give me just a moment to upload it.

2 A You tell me when you've uploaded it and then
3 I'll refresh on this end.

4 Q Okay. It is uploading. It appears to have
5 completed.

6 A Okay.

7 Q I don't see the Exhibit C sticker. I'm not
8 sure why it didn't appear but it should be marked as
9 Exhibit C.

10 A Okay. Well, it's here.

11 Q Okay. Well, while you're taking a look at
12 it, let me -- I'll give you a second.

13 MR. COLEMAN: I'll just ask the court
14 reporter if it's possible afterwards to put the
15 exhibit sticker on. I must somehow not have
16 clicked the right button in the process but we
17 can fix that afterward.

18 THE COURT REPORTER: No problem.

19 (Exhibit C, E-Mail Chain, was marked for
20 identification.)

21 BY MR. COLEMAN:

22 Q Take a minute and look over that.

23 A Okay.

24 Q So this is a -- as a PDF it's a five-page
25 printout of an e-mail chain. If you scroll all the

1 way down to the original, the oldest e-mail, it starts
2 on Page 3. You see that?

3 A Yes.

4 Q This is the e-mail that you got from Sharon
5 Betts at Miracle Hill on Wednesday, May 1, 2019 in
6 response to the online application form you submitted
7 to Miracle Hill, right?

8 A Yes.

9 Q Look for me at the first full paragraph. It
10 starts off with the salutation, "Dear Ms. Welch and
11 Ms. Rogers," and then I'm going to read from that
12 first paragraph. "We appreciate your interest in
13 foster care and we hope we can help you find a way to
14 serve foster children in South Carolina." Did I read
15 that accurately?

16 A Yes, you did, except "Ms." should be
17 Mrs. and Mrs., but that was her error, not yours.

18 Q Okay. A second ago you said that when
19 Miracle Hill responded it was like they wouldn't even
20 consider your ability or your -- your fitness to be a
21 foster parent. It seems to me, they say: We
22 appreciate your interest and we hope we can help you
23 find a way to serve foster children. Right?

24 A Well, I'll clarify. They wouldn't consider
25 it with them.

1 Q Okay. If we look a little bit further down
2 in the second full paragraph, let me read the first
3 sentence there. I'll read the first two. "You stated
4 in your inquiry that you attend the Unitarian
5 Universalist Church and that you are in agreement with
6 our" -- meaning Miracle Hill -- "doctrinal statement.
7 The Unitarian Universalist Church, however, does not
8 align with traditional Christian doctrine and thereby
9 would not be considered a Christian church." Did I
10 read that accurately?

11 A Yes.

12 Q You and Eden are Unitarian Universalists,
13 right?

14 A Yes.

15 Q And I guess let me ask you --

16 A We go to that church. I don't know if that
17 makes us Unitarian Universalists but we go to that
18 church, yeah.

19 Q Okay. Would you -- would you disagree that
20 you're Unitarian Universalists?

21 A No.

22 Q And as I understand it from having looked
23 at -- looked at the Greenville Unitarian Universalist
24 Church website, its doctrinal statement, that sort of
25 thing, looking at the denominational -- the Unitarian

1 Universalist denominational website, it seems to me
2 that it diverges from Christianity in a number of
3 fairly significant ways; do you agree?

4 A I don't really know. I mean, I know that
5 anyone -- any religion can go there and feel at home
6 there. So I guess in that sense that they're open to
7 all religions then that would be different than a
8 Christian church.

9 Q In the sense --

10 A Like a purely only Christian church, I
11 guess.

12 Q Yeah. In the sense that -- I guess I'll --
13 to use the -- sort of a metaphor, the Unitarian
14 Universalist Church takes the viewpoint that there are
15 many different paths to the top of the mountain that
16 all lead to the same place; is that the idea?

17 A Yes, yes.

18 Q And that the Christian faith is a more
19 exclusive religion; it believes that there is only one
20 way to eternal life, salvation, new birth, heaven and
21 the afterlife and that sort of thing, right?

22 A Correct.

23 Q So if you've got one group that believes
24 there is only one way and another group that believes
25 no, any way will do, that those are not the same

1 thing?

2 A That's correct.

3 Q Okay. So it's not entirely surprising,
4 then, that Miracle Hill would say if you're a
5 Unitarian Universalist you're not a Christian who's
6 going to mesh well and be a good fit with our beliefs
7 which are -- that are Christian, that there is only
8 one way, right? That's kind of to be expected that --

9 A I don't -- I don't actually think -- I don't
10 agree with that, like, because they never asked if we
11 were Christian or not and if we -- and there are
12 Christians that go to Unitarian -- that Unitarian
13 church and they would believe the same thing, that
14 there's only one way as far as their beliefs go.

15 Q So let me see. Let me look back at that --
16 that e-mail.

17 So as we said a second ago, right,
18 they've -- they, Miracle Hill, in this e-mail has
19 identified that you attend the Unitarian Universalist
20 Church. You've agreed that that's where you go, that
21 that describes your -- that you are Unitarian
22 Universalists?

23 A Yes.

24 Q And in Miracle Hill's viewpoint, because
25 Unitarian Universalism as a doctrinal system, as a

EXHIBIT 11

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

AIMEE MADDONNA,
Plaintiff,
vs. CIVIL ACTION NO. 6:19-cv-03551-JD
UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES, ET AL.,
Defendants.

VIDEO TELECONFERENCE

DEPOSITION OF: AIMEE MADDONNA
DATE: February 14, 2022
TIME: 9:12 A.M.

LOCATION: Residence of Aimee Maddonna
[REDACTED]
[REDACTED]

TAKEN BY: Counsel for the Defendants Governor
Henry McMaster and Director Michael
Leach

REPORTED BY: LORI S. MORTGE,
Certified Court
Reporter, CCR

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(INDEX AT REAR OF TRANSCRIPT)

1 A. So we're total -- okay. Okay, cool. So
2 we're totally off that one so it's not related;
3 right?

4 Q. It's the same -- everything is related.

5 A. I know everything is related. It's
6 different than -- okay. Different line of
7 questions. Okay.

8 Q. Yes. So I guess what I'm asking is, you
9 know, one of the things in the Complaint is that
10 your understanding, what you've heard, is that
11 Miracle Hill has the most and the best resources and
12 support it can offer to foster parents. I believe
13 you, I believe that's what you've heard, I don't
14 disagree with that.

15 My question is if -- if it were to turn
16 out -- if we were to find out that other CPAs in
17 Greenville had the same types and -- and comparable
18 kinds of resources and support to offer, then the
19 ability -- the availability of support and resources
20 between Miracle Hill or the others, if they're the
21 same or comparable, then that's not any -- any basis
22 upon which one is better than the other if they can
23 offer the same or comparable things; right?

24 A. My answer to that is two-fold. The
25 first one being that the reason why there would be

1 more than one agency is presumably because different
2 families have different needs, different children
3 have different needs. So what might be fabulous
4 resources in one may still not suit the needs of
5 somebody else.

6 Miracle Hill offered resources that at
7 the time their specific programs were not, to the
8 best of my knowledge, offered anywhere else. That's
9 not to say that other CSAs may not have had great
10 resources, just that it's my understanding that
11 different CSAs exist to meet the needs of different
12 types of people.

13 Similarly -- or not similarly but also
14 to answer the question, the resources being offered
15 don't take away from that. It's -- if in order to
16 garner those resources you have to pass a religious
17 litmus test, that doesn't open any doors in my
18 opinion. That's -- so I don't...

19 Q. Sure. And I'm not saying that the
20 availability of support and resources is the only
21 issue. Obviously -- we spent hours already this
22 morning talking about the fact there's this other
23 piece of the religious selectivity. I'm not saying
24 that doesn't exist. I'm just trying to say --
25 figure out what the other categories of difference

1 or harm are.

2 Do you know whether other CPAs offer
3 similar types of support and resources to Miracle
4 Hill, or are you just --

5 A. Well, no, no, but that's also why I said
6 that for me this is -- this is -- Miracle Hill is
7 the name in everybody's mouth. It's great that
8 other CSAs are coming open or becoming more
9 surfaced; okay? But I can -- I can still say that
10 in my community the only one that anybody is aware
11 of is Miracle Hill. Those are the resources that
12 are talked about. That's the option that is
13 discussed. That's the -- that's still the one
14 that's the most known.

15 So I don't know what -- I can't speak to
16 what resources are -- and I can't even speak to
17 what's comparable because the whole point of having
18 more than one CSA in an area would be, I presume,
19 because my idea of best resources, even comparable
20 resources, is going to depend on the needs of me and
21 my family and the children that that CSA serves.

22 I can't speak to -- I can't even, not in
23 good conscious, speak as far as comparable services
24 and everything else because there are different
25 types of CSAs that offer different things. I don't

1 know about here specifically but I do know that, in
2 general, different CSAs offer different things.
3 Like you said, regular foster placement, some of
4 them offer therapeutic foster placement. Some of
5 them offer, you know, some sort of transitional or
6 group housing. I'm sure they offer different levels
7 of foster parent support and all of that because
8 that's how CSAs work.

9 But I don't know specifically for here
10 because Miracle Hill is just the one that's talked
11 about. It's the only one that's -- it's the only
12 one that I -- it's still the only one I know of by
13 name. I know that there are others, but in my
14 group -- but in my community that's the one that I
15 know of. And I can't speak for comparable or better
16 or most because that's going to vary depend on --
17 depending on what the need is.

18 Q. So let me ask a couple of follow-ups
19 there, and one is just a very minor technical point
20 but just for the sake of the record, I'm not trying
21 to be nitpicky.

22 A. Mm-hmm.

23 Q. You keep saying CSA and I keep saying
24 CPA. We're talking about --

25 A. You're completely right. I don't know

1 why -- CPA I guess...

2 Q. It's not like an accountant; right?

3 A. Right. It does -- if you say CPA,
4 that's where my ADHD brain is going. I'm, like, CPA
5 just doesn't sound right so it must be CSA.

6 Q. Listen. You keep calling it CSA if you
7 want. I just want -- later when we look at this
8 transcript we understand that every time you say CSA
9 we're talking about a CPA, but that's fine. You
10 call it that.

11 A. Yeah. So CSA to me, I guess in my head
12 I'm thinking child services agency. And like I
13 heard some people call I think in some areas CPS,
14 child protective services, is, like the equivalent
15 to where I grew up was DSS, Department of Social
16 Services. So I guess I'm thinking because CPA
17 sounds like an accountant so I don't --

18 Q. That's fine. I just wanted to make sure
19 that you're talking about the other name --

20 A. You're absolutely right.

21 Q. So let me ask, too, related to an answer
22 you gave a moment ago.

23 A. Mm-hmm.

24 Q. I'm not asking you to name other CPAs in
25 the Upstate. I'm not asking you to tell me who has

EXHIBIT 12

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION
Civil Action No. 6:19-cv-01567-JD

EDEN ROGERS, et al,)
)
Plaintiffs,)
)
v.)
)
UNITED STATES DEPARTMENT OF)
HEALTH AND HUMAN SERVICES,)
et al.,)
)
Defendants.)
_____)

Videotaped Deposition of SHARON BETTS

(Taken by Plaintiffs)

(Taken virtually)

Tuesday, June 22, 2021

Reported in Stenotype by
Christine A. Taylor, RPR
Registered Professional Reporter

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VIDEOGRAPHER:

Christopher Mills

DEPOSITION OF SHARON BETTS, a witness called
on behalf of Plaintiffs, before Christine A. Taylor,
Registered Professional Reporter and Notary Public, in
and for the State of South Carolina, taken virtually,
on Tuesday, June 22, 2021, commencing at 9:09 a.m.

1 A. I do not know.

2 Q. I'm asking this now as your -- as a 30(b)(6)
3 representative.

4 MR. MATTHEWS: Which topic are you relating
5 this to?

6 MS. SCHINDEL: Topic 4.

7 MR. MATTHEWS: Benefits of foster parents?

8 MS. SCHINDEL: I'm sorry. I didn't catch
9 that.

10 MR. MATTHEWS: Topic 4 relates to the
11 benefits, support and services Miracle Hill provides.

12 MS. SCHINDEL: That's right.

13 MR. MATTHEWS: And this is to foster parents
14 and a question about which churches they recruit in
15 related to benefits provided to foster parents?

16 MS. SCHINDEL: To prospective and current
17 foster parents, that's right.

18 MR. MATTHEWS: I'm going to object to that.
19 It's not within the confines of that topic. She's free
20 to answer, but I will object to it being considered a
21 Miracle Hill response.

22 MS. SCHINDEL: I'm sorry, Mr. Matthews, for
23 some reason you're coming in a little bit muffled.

24 MR. MATTHEWS: I'm sorry. Let me move a
25 little bit closer. I will object to that question as

1 being outside the bounds of topic 4. She's free to
2 answer the question, but I will object to it being
3 considered as a response on behalf of Miracle Hill
4 Ministries.

5 BY MS. SCHINDEL:

6 Q. Okay. So let's start with answering the
7 question as the representative of Miracle Hill
8 notwithstanding the objection, and then you can answer
9 again in your individual capacity.

10 A. And the question again, please.

11 Q. So in a 30(b)(6) capacity as a representative
12 of Miracle Hill, I'm asking has Miracle Hill ever
13 attended a non-Protestant church for purposes of
14 recruitment?

15 A. I do not know.

16 Q. You are not aware of a representative of
17 Miracle Hill that has ever attended a
18 non-Protestant church --

19 A. I am not aware.

20 Q. And now I'm asking in your individual
21 capacity. Are you aware of whether anybody from
22 Miracle Hill has ever conducted recruitment in a
23 non-Protestant church?

24 A. I am not aware.

25 Q. Meaning you are not aware of anybody having

1 done so?

2 A. Yes.

3 Q. Okay. Does Miracle Hill support foster
4 families during the application and licensing process?

5 A. Yes.

6 Q. How does Miracle Hill do that?

7 A. Miracle Hill provides all of the application
8 paperwork. Miracle Hill has ongoing conversations and
9 phone calls, e-mails, contact with that family.
10 Miracle Hill submits a fire inspection request to the
11 state fire marshal's office. Miracle Hill provides
12 e-mail links to specific trainings that the foster
13 parents must complete. And Miracle Hill conducts the
14 two home study visits that I previously referenced.

15 Q. Is that the extent of the support that
16 Miracle Hill provides to prospective foster families
17 during the application and licensing process?

18 A. We could add things such as prayer support.
19 We could add things if they needed a bed, dresser,
20 things like that. They can request that to see if we
21 have availability to help them provide that.

22 Q. Does Miracle Hill provide support to foster
23 families after they are licensed?

24 A. Yes.

25 Q. What support do they provide?

1 A. They, again, offer prayer and encouragement.
2 They also are required by state DSS to conduct regular
3 ongoing visits to the foster home. Phone calls,
4 e-mails, maintaining a family file, child file, per DSS
5 request. They help to establish an individual service
6 plan for the child. They give resources to community
7 events activities, educational support, and contact
8 with DSS case workers regarding the needs of the child.

9 Q. You said they give resources to community
10 events activities, what does that mean?

11 A. From time to time there may be a donor who
12 give us tickets to an event such as the Children's
13 Museum in the upstate. We often are invited by various
14 churches for other kinds of places like that would
15 invite us to a -- an event that they were holding for
16 foster families or just in general to support children.

17 Q. You said we're often invited by various
18 churches or places like that. What other than
19 churches are you referring to?

20 A. There might be some community type
21 organizations, the Lion's Club, et cetera.

22 Q. And in your previous answer, you also
23 mentioned support, that you provide educational
24 support. What does that mean?

25 A. We have a person on our staff who does

1 research connections with the local -- specifically
2 Greenville County School District, in helping to find
3 resources for children that may have educational needs.
4 It might be tutoring. It might be helping them as a
5 foster family deals with Individual Educational Plan
6 meeting.

7 Q. And is that sort of service required by DSS?

8 A. No.

9 Q. Do all child placing agencies provide that
10 service?

11 A. I do not know.

12 Q. Are you aware of other child placing agencies
13 that provide that service?

14 A. No.

15 Q. And the community events that we spoke about
16 a few moments ago, tickets to museums or access to
17 other community spaces, is that sort of service
18 required by DSS?

19 A. No.

20 Q. Do all other CPAs provide that benefit?

21 A. I do not know. I do know some do.

22 Q. Which -- which do?

23 A. Personally, I'm aware of Thornwell and Connie
24 Maxwell.

25 Q. And what are you aware of when you say --

1 what are you thinking of when you say that they
2 provide these benefits?

3 A. Thornwell had foster families to the
4 Greenville Drive baseball game. Connie Maxwell has
5 donors who also give various items as well as tickets
6 to events.

7 Q. Are you aware of any other CPAs that provide
8 similar benefits?

9 A. Not personally.

10 Q. We mentioned earlier in our -- in this
11 deposition that Miracle Hill has a position known as a
12 placement coordinator; is that right?

13 A. I'm sorry?

14 Q. Miracle Hill has a position known as a
15 placement coordinator?

16 A. Yes.

17 Q. What is a placement coordinator?

18 A. A placement coordinator works with the
19 placement units of each of the regions -- regions of
20 DSS. They are sent universal applications from DSS and
21 they look through those applications. They look at our
22 available families to see if we have a family that
23 would be suitable and appropriate for the needs of
24 those children. That coordinator then discusses all of
25 those universal applications with a supervisor and then

1 statement in their belief and in their practice.

2 Q. Right. So if they agreed with the statement
3 in their belief and in their practice but identified
4 as LGBTQ, Miracle Hill would work with that individual
5 or would not?

6 A. Individually, I'm going to answer that as that
7 is not in my scope of making that decision.

8 Q. But part of your job is handling inquiries;
9 right?

10 A. Yes. I review --

11 Q. I'm sorry?

12 A. I review them.

13 Q. And so what would you do with an inquiry from
14 somebody who says that they are -- identifies as LGBTQ
15 but are not in a same-sex relationship and do not
16 intend to enter one?

17 A. I would take it to my supervisor. I would
18 also look it over for the sake of are they attending a
19 Christian church, do they have -- do they have a
20 personal -- are they following Christ on a daily basis.

21 Q. And if an individual identified as LGBTQ and
22 followed Christ on a daily basis and was willing to
23 sign the doctrinal statement and was not in a same-sex
24 relationship, would that person be approved?

25 A. Speaking personally, that's a lot of ifs, and

1 I do not make those type of decisions.

2 Q. When you say "that's a lot of ifs," do you
3 mean that you don't think that person could exist?

4 A. No, I'm not saying that.

5 Q. So if someone is willing -- identified as
6 LGBTQ, is willing to sign the doctrinal statement,
7 attends church, and is in a relationship -- a romantic
8 relationship of the same sex but no sexual contact,
9 would that person be able to work with Miracle Hill?

10 MR. MATTHEWS: I'm going to object. The
11 witness has testified in that situation she would take
12 it to a higher official inside Miracle Hill Ministries
13 and she is not here to testify on topic 1.

14 MS. SCHINDEL: I'm asking in her individual
15 capacity. And I actually think this is a slightly
16 different question than the one --

17 MR. MATTHEWS: But you asked her what would
18 Miracle Hill would do. And she has told you what she
19 would do, which is take it to a higher official inside
20 Miracle Hill. I don't mean to be difficult and
21 argumentative, but this is going way outside the scope
22 of what she's here for.

23 BY MS. SCHINDEL:

24 Q. All right. Let's move on for now.

25 Since 2017, how many families have been

1 turned away because of their faith or lack thereof or
2 because they're in a same-sex relationship?

3 And I ask this as a representative of Miracle
4 Hill. I'm sorry, I'm going to stop sharing my screen.

5 A. I do not have a specific number.

6 Q. And does Miracle Hill keep this information
7 anywhere?

8 A. Yes. There would probably be hard copies of
9 those inquiries, but I do not know that it would be
10 kept in any kind of a format or report of any kind.

11 Q. So topic 9, for which you were designated,
12 was prospective foster families who are not accepted
13 by Miracle Hill because of their religion or lack
14 thereof or same-sex relationship or LGBTQ status. So
15 did you undertake any effort to ascertain how many
16 families have been turned away because of their faith
17 or lack thereof or because they're in a same-sex
18 relationship?

19 A. Yes. I did look at some of those hard copies
20 of those inquiries.

21 Q. And so how many families have been turned
22 away on these bases?

23 A. I don't have a specific number. I will use an
24 approximate number, 25 to 30.

25 Q. And this is 25 to 30 since 2015 -- excuse

1 me -- since 2017, or is this a different time frame?

2 A. Yes, during that -- during that time frame.

3 Q. So how many of those individuals or families
4 that were turned away were Catholic?

5 A. As I said, I don't have the specifics, so I
6 would say majority.

7 Q. Majority. And do majority mean more than
8 half or does it mean most?

9 A. More than half.

10 Q. And how many were non-Christian of the
11 remaining -- so setting apart the Catholics, how many
12 were non-Christian?

13 A. Again, I don't have the specific numbers.

14 Q. Do you have an approximation?

15 A. Five. Five to seven.

16 Q. And then how many prospective foster parents
17 were turned away because they were LGBTQ?

18 MR. COLEMAN: This is Miles. Object to the
19 form of the question. If you know, you can answer.

20 THE WITNESS: So anybody who is -- did not
21 follow Jesus, did not agree to the doctrinal statement,
22 did not attend a Christian church would be directed to
23 another agency, another child placing agency.

24 BY MS. SCHINDEL:

25 Q. Right. But they wouldn't be able to work

1 with Miracle Hill?

2 A. Right.

3 Q. So how many of the people that were told they
4 could work with Miracle Hill, how many of those
5 prospective foster parents were LGBTQ?

6 MR. MATTHEWS: Object to the form of the
7 question. This is Steve Matthews. Are you saying how
8 many of them were LGBTQ or how many were rejected
9 because they were LGBTQ.

10 BY MS. SCHINDEL:

11 Q. That's a fair question. So let's start with
12 how many were rejected because they were LGBTQ?

13 A. I don't know. No more than one.

14 Q. No more than one?

15 MR. MATTHEWS: I believe you all may have
16 misheard each other. You may want to ask her to repeat
17 that answer.

18 BY MS. SCHINDEL:

19 Q. How many of the families that were turned
20 away from working with Miracle Hill as the prospective
21 foster parents, how many of those individuals or
22 families were turned away because they were LGBTQ?

23 A. I don't recall that -- not just for that, no
24 not -- not for that.

25 Q. Miracle Hill has never turned away a foster

1 family because they were LGBTQ?

2 A. I personally am not aware of that. And so it
3 may have been a discussion higher than me, but I don't
4 have knowledge of that.

5 Q. But you testified earlier that a person who
6 is LGBTQ would not be able to work with Miracle Hill
7 under the tenets of the doctrinal statement; is that
8 right?

9 MR. COLEMAN: Object to form of the question.
10 Misstates prior testimony.

11 BY MS. SCHINDEL:

12 Q. Sorry. When -- you still have to answer the
13 question.

14 A. I'm sorry. The question again.

15 Q. When -- as I understood your testimony
16 earlier, you said that if somebody -- that somebody
17 who is LGBTQ would not comply -- comport with Miracle
18 Hill's doctrinal statement would not be able to work
19 with Miracle Hill; is that right?

20 MR. COLEMAN: Same objection.

21 THE WITNESS: The three things I mentioned
22 before, if they were following Christ, if they agreed
23 to the doctrinal statement, and they attended a
24 Christian church.

25 BY MS. SCHINDEL:

1 Q. Right. Would somebody who is in a same-sex
2 relationship be able to work with Miracle Hill as a
3 prospective foster parent?

4 A. I keep going back to the three things that are
5 required. Following Christ, agreeing and practicing --
6 belief and practice of the doctrinal statement, and
7 attending a Christian church.

8 Q. I'm going to insist that you answer the
9 question, which is: Would somebody who's in a
10 same-sex relationship be able to work with Miracle
11 Hill as a prospective foster parent?

12 MR. MATTHEWS: I'm going to object to the
13 form. Are you asking would they be able to or would
14 Miracle Hill be willing to accept them? I just want to
15 make sure that the question is clear. Is it -- would
16 the couple be willing to or would Miracle Hill be
17 willing to? And if it's the latter, I'm going to
18 restate my earlier objection that that's outside the
19 scope of this witness's 30(b)(6) testimony.

20 BY MS. SCHINDEL:

21 Q. Let's try it this way. Before a few minutes
22 ago I was asking how many individuals were turned away
23 because they were LGBTQ. So let me ask this: How
24 many individuals were turned away as prospective
25 foster parents, how many of those were LGBTQ?

1 A. I only saw four.

2 Q. Four.

3 A. That inquired.

4 Q. And has Miracle Hill ever worked with someone
5 who is LGBTQ?

6 A. No.

7 Q. And is a person who is LGBTQ compliant --
8 would such a person be able to comply with the
9 doctrinal statement?

10 MR. MATTHEWS: Same objection with regard to
11 topic 1.

12 BY MS. SCHINDEL:

13 Q. You still have to answer, Ms. Betts.

14 A. No.

15 Q. Okay. Of the families that were -- that were
16 rejected by Miracle Hill prospective foster parents
17 because of their religious beliefs or sexual
18 orientation, did those families go on to approach
19 other CPAs?

20 A. So tell me your understanding -- or what
21 you're asking -- rejected those words that were in that
22 middle of that question.

23 Q. So we were just asking about and we were
24 talking about families that Miracle Hill has rejected
25 or turned away because of their faith or lack thereof

1 or because they are in a same-sex relationship?

2 A. They were directed elsewhere.

3 Q. Right. Did Miracle Hill know whether any of
4 those families or individuals went on to actually
5 approach another CPA?

6 A. No. I don't know how we would know that.

7 Q. Does Miracle Hill follow up or track what
8 happened to these parents in any way?

9 A. No, not usually.

10 Q. And when you say "not usually," what do you
11 mean by that?

12 A. Once we -- once we let them know and give them
13 a list or other child listing agencies to pursue
14 licensure with, we do not follow up with those
15 families.

16 Q. Has any other CPA contacted Miracle Hill
17 about families that Miracle Hill had turned away or
18 refused to work with?

19 A. Are you asking that from me personally or are
20 you asking that on behalf of Miracle Hill?

21 Q. On behalf of Miracle Hill.

22 A. None that we're aware of.

23 (Exhibit 12 marked for identification.)

24 Q. Let's mark Tab 22 which is 12850. This is
25 Exhibit 12.

1 A. That number again, please.

2 Q. It's 12850. This is Exhibit 12. Do you have
3 the document in front of you?

4 A. Yes.

5 Q. Okay. This is Exhibit 12. It's
6 MIRACLE_HILL_SUBP_012850 to 51. And this is an
7 e-mail, the top e-mail is from Brenda Parks to Reid
8 Lehman and Ken Kruithof copying you and Jason Mowen,
9 and the subject is foster parent inquiry, the
10 importance is marked high. Do you recognize this
11 e-mail?

12 A. Yes.

13 Q. And do you -- and then the e-mail below is an
14 e-mail from you to a redacted individual or
15 individuals; is that right?

16 A. Correct.

17 Q. Did you send and receive these e-mails in the
18 ordinary course of your work at Miracle Hill?

19 A. Yes.

20 Q. And in the e-mail at the top, Ms. Parks
21 explain that Miracle Hill received an inquiry from a
22 same-sex couple for the foster parent program. And
23 she says that you did a Facebook check for the couple
24 and was able to find one of them; is that right?

25 A. Yes.

1 A. To let her know what I had already -- what I
2 already was asking for and what was my response going
3 to be.

4 Q. When you say "what was my response going to
5 be," you mean what would your response be going
6 forward if the couple sent their testimony and their
7 church denomination?

8 A. Well, she includes in her e-mail "if they do
9 respond, we will need to discuss how you would have us
10 to reply."

11 Q. And did that discussion take place?

12 A. Not that I recall.

13 Q. Do you recall what happened with this
14 inquiry?

15 A. My recollection, they did not respond.

16 Q. So I do think I need to go back and make sure
17 I understand. Why did you send this inquiry to
18 Ms. Parks?

19 A. This is an e-mail. This is not the actual
20 inquiry. The actual inquiry is not attached here
21 because, as I said, she has privy to that just like I
22 do. I sent this -- yeah.

23 Q. Why did you send this e-mail to Ms. Parks?

24 A. I wanted her to be able to see what I was
25 asking for and what was missing in the inquiry if she

1 had not noticed it missing.

2 Q. But you wouldn't have sent this -- we are
3 going a little bit in circles. You've testified that
4 you would not have sent this to Ms. Parks if this had
5 come from a couple that was not same sex.

6 A. Okay.

7 Q. I understand --

8 A. I think I also testified that it was because
9 we believed that to have the same -- that their names
10 led us to believe that they were two women.

11 Q. So --

12 A. I think I've answered that a couple of times.

13 Q. So I suppose my question is: Do you feel
14 that -- were you asking whether Miracle Hill would be
15 able to accept these -- this couple if they were same
16 sex regardless of what they sent you if they sent a
17 testimony and a -- and a church denomination that
18 otherwise satisfied Miracle Hill's requirements?

19 A. Yes.

20 Q. Thank you. And would Miracle Hill have been
21 willing to work with those women if they sent a
22 testimony and church denomination that otherwise
23 satisfied Miracle Hill's requirements?

24 MR. COLEMAN: Object to the form. Clarify,
25 are you asking individually or what capacity you're

1 asking that?

2 BY MS. SCHINDEL:

3 Q. You can answer the question.

4 MR. COLEMAN: Sorry, my objection may not have
5 been clear. Are you asking her in her individual
6 capacity or in her 30(b)(6) designee capacity?

7 BY MS. SCHINDEL:

8 Q. I'm asking you if you think Miracle Hill --
9 if you understand whether Miracle Hill would have been
10 willing to work with those women if they had otherwise
11 sent a church denomination and a testimony that
12 satisfied Miracle Hill's requirements?

13 A. I would say no.

14 (Exhibit 13 marked for identification.)

15 Q. All right. Let's mark Tab 66 and this is
16 6977. Do you have the document?

17 A. Yes.

18 Q. This is an undated note that is signed by you
19 which appears to be a summary of a conversation that
20 you had with Brandy Welch on April 11, 2019. It's
21 Bates stamped MIRACLE_HILL_SUBP_006977 and it is
22 Exhibit 13. Have you seen this document before?

23 A. Yes.

24 Q. Did I describe it accurately?

25 A. Yes.

1 Q. Did you draft and sign this note?

2 A. I did.

3 Q. When did you draft and sign this note?

4 A. I do not have a date written on it. I'm going
5 to approximate it either April 11 or April 12 of 2019.

6 Q. And why did you sign it?

7 A. Because I used the word "I" throughout the
8 document and I wanted it to be known who was writing
9 it. And we sign -- we sign all documents typically in
10 the course of our work.

11 Q. Do you -- why did you draft this note?

12 A. I drafted this note to help me recall my
13 conversation with Ms. Welch if she did complete an
14 inquiry.

15 Q. And is that your typical --

16 A. No.

17 Q. So why did you do it in this instance?

18 A. I felt the type of questions that she was
19 asking me were not our typical questions that we get
20 from prospective foster parents who are interested in
21 working with Miracle Hill. When I get -- reiterated to
22 her that Miracle Hill was a Christian ministry and we
23 viewed our work as a religious exercise and want those
24 who work with us to share our mission, motivation, and
25 beliefs, she continued to ask kind of the same question

1 over again. And, again, I felt there was much more --
2 perhaps something behind what she was asking, and I
3 just wanted to have something to go back to if she did
4 inquire.

5 Q. So in the call Ms. Welch expressed her
6 family's interest in serving as a foster care family;
7 is that right?

8 A. That was -- that was stated in a voicemail
9 message that I was then forwarded from a receptionist.

10 Q. And she stated that she -- so in the
11 voicemail she stated that she was interested in foster
12 care and then you called her; is that right?

13 A. Yes.

14 Q. And did she reiterate that point during the
15 phone call?

16 A. She said that she and her family were
17 interested in foster care.

18 Q. And she said that she has a wife and she
19 asked if she would be disqualified based on your
20 website; is that right?

21 A. She said she had a wife and then she asked a
22 question, did our website indicate what type of
23 families we work with.

24 Q. So -- right. And so -- and then she asked if
25 she would be disqualified; is that right?

1 Miracle Hill staff as far up in the chain of command as
2 Reid Lehman.

3 Q. And what were those conversations?

4 A. I do not recall other than just a discussion
5 of what a Universalist -- Unitarian Universalist Church
6 would believe and whether it was considered a Christian
7 church.

8 Q. So Miracle Hill's rejection of Ms. Welch and
9 Ms. Rogers is squarely within topic 9 of the
10 designated topics. So I do need to understand Miracle
11 Hill's basis for this letter and this communication.

12 So why did Miracle Hill tell Ms. Rogers and
13 Ms. Welch that the Unitarian Universalist Church is
14 not considered a Christian church?

15 A. Because the Unitarian Universalist Church
16 would not claim to be a Christian church.

17 Q. And --

18 A. Their doctrine would not -- their doctrine
19 would not align with our doctrine.

20 Q. How did Miracle Hill come to that conclusion?

21 A. I do not know.

22 Q. You are the person designated most
23 knowledgeable on this topic; is that right?

24 A. Yes. I also believe Reid Lehman spoke on
25 Thursday to point number 1 in the deposition about that

1 specific --

2 Q. No. This is not -- this is not topic number
3 1. This is topic number 9.

4 A. Okay.

5 Q. So how did Miracle Hill come to the
6 conclusion that the Universalist Unitarian -- or the
7 Unitarian Universalist Church is not a Christian
8 church?

9 A. I'm going to say either personal knowledge
10 and/or research by looking it up as to what their
11 doctrinal statement would include.

12 Q. If an applicant went to a Methodist church
13 and the spiritual leader of that church performed
14 same-sex marriages, would you reject the application
15 of a member of that church even if the member agreed
16 with the doctrinal statement?

17 A. If they are active in a Christian church, if
18 they are -- can adhere to the doctrinal statement in
19 faith and practice and if they can give a personal
20 testimony that they're following Christ, they could be
21 considered.

22 Q. Even if the spiritual leader of that church
23 engaged in practices that would not adhere to the
24 doctrinal statement?

25 MR. MATTHEWS: Object to the form.

1 BY MS. SCHINDEL:

2 Q. You can still answer the question.

3 A. Okay.

4 MR. MATTHEWS: Yeah, I'm sorry.

5 THE WITNESS: Yes.

6 BY MS. SCHINDEL:

7 Q. So why then if Ms. Rogers and Ms. Welch told
8 Miracle Hill that they adhered to the doctrinal
9 statement did it matter that they went to a church
10 that might not in all forms align with the doctrinal
11 statement?

12 A. No. As it's stated in this letter is that the
13 Unitarian Universalist Church is not considered a
14 Christian church.

15 Q. So if Ms. Rogers and Ms. Welch attended a
16 different church, say a Methodist church and agreed
17 with doctrinal statement and everything else about
18 their application was the same, would Miracle Hill
19 have accepted their application?

20 MR. COLEMAN: This is Miles. Object to the
21 form of the question.

22 BY MS. SCHINDEL:

23 Q. You can still answer.

24 A. No, I do not believe they would.

25 Q. Why is that?

1 A. Because they are in a practicing -- that would
2 not agree with our doctrinal -- in a practice that
3 would not agree with our doctrinal statement.

4 Q. And what practice is that?

5 A. That they are a same-sex married couple.

6 Q. Did you note to Ms. Welch and Ms. Rogers when
7 rejecting their foster application that their --
8 excuse me.

9 Did the note to Ms. Welch and Ms. Rogers
10 rejecting their foster application cite the fact that
11 they're a same-sex couple as an additional reason for
12 their rejection?

13 A. No.

14 Q. Why not?

15 A. Based --

16 MR. MATTHEWS: To the extent it involves
17 privileged communication, I'll object. To the extent
18 it doesn't, feel free to answer.

19 BY MS. SCHINDEL:

20 Q. Go ahead.

21 A. Based on conversations and understanding from
22 legal counsel, I cannot --

23 MR. COLEMAN: Objection.

24 MR. MATTHEWS: Object. If that's where the
25 answer is going, I'll object and assert privilege and

1 direct her not the answer.

2 BY MS. SCHINDEL:

3 Q. So let me ask this -- and feel free to pause
4 to the extent your counsel has any objection -- do you
5 have any understanding as to why -- does Miracle Hill
6 -- I'm asking you as a representative for Miracle
7 Hill. Does Miracle Hill have any understanding as to
8 why Ms. Welch and Ms. Rogers rejection letter, the
9 letter to them rejecting their foster application does
10 not cite the fact that they are same-sex couple as an
11 additional reason for their rejection other than
12 communications with legal counsel?

13 MR. MATTHEWS: Just to make sure I understand.
14 You're asking if --

15 MS. SCHINDEL: I'm asking does Miracle Hill --

16 MR. MATTHEWS: -- of any reason why same-sex
17 couple was not included in the letter for any reason
18 other than communications that involved legal counsel;
19 is that correct?

20 MS. SCHINDEL: Not quite.

21 BY MS. SCHINDEL:

22 Q. Does -- the question is: Does Miracle Hill
23 have any knowledge as to why or have any -- yes. Does
24 Miracle Hill have any knowledge as to why Ms. Welch
25 and Ms. Rogers, the rejection letter did not cite the

1 fact that they were a same-sex couple as an additional
2 reason for the rejection that is based on anything
3 other than communications with legal counsel?

4 MR. MATTHEWS: To the extent that you
5 clarified it that way, excluding any discussions,
6 whatever, with legal counsel, if there is any other
7 understanding, you're free to conditions answer the
8 question. But, again, if it involved the discussions
9 with legal counsel, then you're not.

10 THE WITNESS: No, we're not aware.

11 MS. SCHINDEL: So I realize it's a little
12 after 1:00. I'm happy to take a lunch break if that
13 would be amenable to others or we're happy to keep
14 going.

15 MR. MATTHEWS: Probably now is a good time.

16 THE WITNESS: Now is a good time.

17 MS. SCHINDEL: I believe last time we did
18 45 minutes. Is that still a good time?

19 MR. MATTHEWS: Yesterday we found out so we
20 don't underestimate it --

21 (Off-the-record discussion.)

22 MR. MATTHEWS: Is an hour okay?

23 MS. SCHINDEL: That's perfectly fine. We'll
24 see you back at 2:05.

25 THE VIDEOGRAPHER: Off the record at 1:05.

1 (Recess taken from 1:05 p.m. until 2:16 p.m.)

2 THE VIDEOGRAPHER: On the record at 2:16.

3 BY MS. SCHINDEL:

4 Q. Ms. Betts, does Miracle Hill assign mentors
5 to work with foster children?

6 A. No.

7 Q. Does Miracle Hill work with mentors?

8 A. We no longer work with mentors. We have in
9 the past.

10 Q. When did Miracle Hill stop working with
11 mentors?

12 A. December of 2020.

13 Q. And were those -- I'm just adjusting my
14 camera so it's not just my forehead.

15 A. That's helpful. Thank you.

16 Q. Were those -- were those mentors working with
17 foster children or just within Miracle Hill's group
18 homes?

19 A. I am unaware of any foster children that they
20 were working with. Mostly it was group home related.

21 Q. Got it. And is it your understanding that
22 Miracle Hill will work now with -- well, let me phrase
23 this. Was it your understanding at some point Miracle
24 Hill determined that it would be willing to work with
25 Catholic individuals who wanted to serve as mentors or

1 prospective foster parents if those individuals were
2 willing to serve -- willing to sign the doctrinal
3 statement?

4 A. Yes.

5 Q. And is it your understanding that the
6 doctrinal statement sets out Evangelical beliefs?

7 A. Yes.

8 Q. Do you -- do you think that all Catholics
9 would be able to sign the doctrinal statement?

10 A. I do not know.

11 Q. Do you -- do you think that some people
12 adhering to Catholic faith would be unable to sign the
13 doctrinal statement?

14 MR. COLEMAN: This is Miles. Object to the
15 form of the question.

16 BY MS. SCHINDEL:

17 Q. You can still answer.

18 A. I do not know that answer either.

19 Q. Has Miracle Hill always been willing to work
20 with Catholic individuals as prospective foster
21 parents?

22 A. No.

23 Q. Do you know when the policy changed?

24 A. May of 2019.

25 Q. Are you familiar with a lawsuit brought

1 orientation but never completed an application. We
2 have received one application from a Catholic couple
3 from Heartfelt Calling, but they have not -- again,
4 they have not registered for an orientation.

5 Q. Okay. So, unfortunately, for some reason --
6 it must be the servers because exhibit share
7 completely isn't working. So I'm going to again
8 screen share the document that you have in front of
9 you. So give me one moment. So this is -- this is
10 Exhibit 23 and it's Bates stamped
11 MIRACLE_HILL_SUBP_004958 to 962. And it is a -- it
12 appears to be an inquiry form that Miracle Hill
13 received from applicant which you then forwarded to
14 Brenda Parks, and she responded to your e-mail. Is
15 that all right?

16 A. Yes.

17 Q. Do you recognize this document?

18 A. I've seen it.

19 Q. And were your e-mails and inquiry sent and
20 received in the normal course of your business at
21 Miracle Hill?

22 A. It was.

23 Q. So this inquiry is from an applicant that
24 indicated that she attended Catholic church; is that
25 right. I'm looking particular at the page ending in

1 4960.

2 A. Yes.

3 Q. So why did you forward this inquiry to Brenda
4 Parks?

5 A. I do not recall.

6 Q. Did you send -- this is from February 26,
7 2020. At this point Miracle Hill was working with
8 had -- was willing to work with Catholic applicants
9 provided they met all of Miracle Hill's other
10 requirements; is that right?

11 A. Yes, that they could sign the doctrinal
12 statement in belief and practice and be a follower of
13 Jesus.

14 Q. At this point were you sending all
15 applications from Catholic families to Ms. Parks?

16 A. This was an inquiry. And I do not recall how
17 many inquiries would have come from the time that
18 policy was changed in May of 2019 up until this date of
19 2/26/2020.

20 Q. So let me try re-asking that you're right, it
21 is an inquiry. At this point, to your knowledge, were
22 you forwarding all inquiries from Catholic applicants
23 or Catholic individuals who indicated they were
24 interested in fostering with Miracle Hill, were you
25 forwarding all such inquiries to Ms. Parks?

1 A. I do not recall.

2 Q. Do you have -- I'm going to stop sharing if
3 that's okay. Do you have any reason to believe that
4 there were inquiries you received from Catholic
5 families that you did not forward to Ms. Parks?

6 A. Perhaps.

7 Q. Okay. So when there is a prospective foster
8 parent with whom Miracle Hill will not work because of
9 that individual's religious beliefs or sexual
10 orientation, did Miracle Hill refer that prospective
11 foster family or parent to another CPA?

12 A. Again, we would look at whether the person was
13 attending a Christian church, whether they could sign
14 the doctrinal statement and -- in faith and practice,
15 and that they were a follower of Jesus. If one of
16 those three were not there, not yes answers, then we
17 would refer them to another CPA.

18 Q. And just to be clear, when you say whether
19 they could sign the doctrinal statement in faith and
20 in practice, that's based in part on Miracle Hill's
21 assessment on whether they would be able to sign the
22 doctrinal statement in faith and in practice, right,
23 not just whether they assert that they are able to
24 sign the doctrinal statement in faith and in practice;
25 is that right?

1 A. Again, asking those four questions that are
2 asked of all applicants.

3 Q. And based on Miracle Hill's assessment,
4 following those four questions, if Miracle Hill
5 determines that it's unwilling to work or unable to
6 work with any given individual because of that
7 individual's religious beliefs or sexual orientation,
8 Miracle Hill would then refer those individuals along
9 to other CPAs; is that right?

10 A. Because of their religious beliefs, yes, we
11 would refer them to other CPAs.

12 Q. Well, just -- so it's not necessarily because
13 of their religious beliefs, it's because their
14 practices may not align with Miracle Hill's doctrinal
15 statement; right?

16 A. Correct.

17 Q. So -- okay. And did Miracle Hill always send
18 the individuals to the same -- refer the individuals
19 to the same set of CPAs or did it vary depending on
20 the family with whom you're engaging?

21 A. It probably varies on when I'm answering the
22 e-mail. I often give them a large variety and
23 sometimes, as you've noticed in some of the e-mails, I
24 might give them one or two or I may refer them straight
25 to Heartfelt Calling which has basically all of the

1 CPAs and has knowledge of what one's -- they might be
2 willing to or interested in finding out more
3 information about.

4 Q. And is it -- are there specific factors that
5 you consider when deciding which CPAs to recommend to
6 any given foster parent or prospective foster parent?

7 A. I don't think that I -- necessarily that
8 that's true.

9 Q. Okay. Let's go back to -- let me figure out
10 what exhibit it is. Hold on. It's Exhibit 16 and
11 this is the document 592.

12 A. Yes, I have it.

13 Q. Okay. And we established earlier that this
14 is the note you sent to Ms. Rogers and Ms. Welch
15 explaining that Miracle Hill could not work with them
16 as foster parents; is that right?

17 A. This is where I referred to other agencies.

18 Q. And rejected their application to work with
19 Miracle Hill; is that right?

20 MR. COLEMAN: This is Miles. Object to the
21 form of the question. Go ahead.

22 THE WITNESS: They never did apply to be a
23 foster parent.

24 BY MS. SCHINDEL:

25 Q. This is the e-mail where you explained that

1 that, in fact, Epworth would not work with LGBTQ
2 individuals or non-Christians?

3 A. No.

4 Q. Let's take a look at Tab 49 and this is --
5 MIRACLE_HILL -- for you to find it, 3561.

6 A. I have the document.

7 Q. I'm still waiting for it. This is -- all
8 right. I will again have to do screen share. So this
9 is going to be Exhibit 25 and let me pull it up.
10 (Exhibit 25 marked for identification.)

11 Q. And this is an e-mail chain with the Bates
12 stamp MIRACLE_HILL_SUBP_003561 to 63. Have you seen
13 those e-mails before?

14 A. Yes.

15 Q. And the first e-mail is on -- is actually the
16 second on the page. And it's an e-mail from Reid
17 Lehman to Beth Williams who's now at Epworth; is that
18 right?

19 A. Yes.

20 Q. And he says, "Michael Leach will be coming to
21 tour portions of MHM next Tuesday. He continues to
22 believe that Miracle Hill is the only agency that
23 needs the waiver given by HHS last winter. Would you
24 be willing for me to tell him about Epworth and your
25 denomination's expectation that you'll recruit

1 heterosexual couples? I'm not suggesting that we tell
2 the media, but I'm like to tell Mr. Leach." Is that
3 right?

4 A. It's what the sentence -- or the paragraph
5 says.

6 Q. And does this not indicate that Epworth --
7 that Mr. Lehman understood that Epworth would not --
8 would only recruit heterosexual couples?

9 A. I did not discuss that specifically with him.

10 Q. Do you have any reason to believe that
11 Epworth will not work with same-sex couples?

12 A. Again, are you talking personally or are you
13 talking --

14 Q. You personally, do you have any reason to
15 believe that Epworth will not work with same-sex
16 couples?

17 A. No, I do not.

18 Q. I see. So -- and Mr. Lehman, he relayed this
19 conversation to you as the Miracle Hill
20 representative?

21 A. As Miracle Hill representative, he discussed
22 or talked with me that he had indeed had communication
23 with Beth Williams, but the specifics as what you just
24 read, I didn't have knowledge of.

25 Q. But you testified that you've seen this

1 e-mail before; right?

2 A. I have seen this e-mail, yes, in scanning it
3 in preparation for today's deposition.

4 Q. So I'm trying to understand Miracle Hill's
5 testimony that it has no reason to believe that
6 Epworth will recruit only heterosexual couples. Could
7 you please explain the basis for that testimony?

8 A. One more time that question, please.

9 Q. What is the basis for your testimony as a
10 representative of Miracle Hill that Miracle Hill has
11 no understanding or no reason to believe that Epworth
12 will only recruit heterosexual couples?

13 A. I'm still confused on the question.

14 Q. Did Miracle Hill have any reason to believe
15 that Epworth will only work with heterosexual couples?

16 MR. MATTHEWS: Object to the form of the
17 question.

18 BY MS. SCHINDEL:

19 Q. You can still answer.

20 A. I'm going to go on the basis of what's in this
21 e-mail that just says that you will -- or that you'll
22 recruit heterosexual couples.

23 Q. Ms. Betts, you were designated as the
24 representative on communications with other South
25 Carolina CPAs regarding their policies or practices of

1 not accepting prospective foster families because of
2 their religion, same-sex relationship, or LGBTQ
3 status; is that right?

4 A. Yes.

5 Q. And you were tasked with being the person
6 most knowledgeable about Miracle Hill's understanding
7 of these communications.

8 A. Okay.

9 Q. So as a designee for Miracle Hill, does
10 Miracle Hill have any reason to believe that Epworth
11 will not recruit -- will only recruit heterosexual
12 couples?

13 A. I'm sorry, the last part of that question
14 threw me off.

15 Q. Does Miracle Hill have reason to believe that
16 Epworth will recruit only heterosexual couples?

17 A. According to this e-mail, they will only
18 recruit heterosexual couples.

19 Q. Are you aware of any other communications --
20 and as a designee of Miracle Hill, is Miracle Hill
21 aware of any other communications with other South
22 Carolina CPAs regarding their policies or practices of
23 not accepting prospective foster families because of
24 their religion, same-sex relationship or LGBTQ status?

25 A. Yes. Mr. Lehman had e-mails with Southeastern

1 Children's Home.

2 Q. And does Miracle Hill understand that
3 Southeastern Children's Home will not accept
4 prospective foster families because of their religion,
5 same-sex relationship, or LGBTQ status?

6 A. Yes.

7 Q. Are there any other communications of which
8 you're aware?

9 A. Brenda Parks -- Brenda Parks told me of
10 conversations that she had with some, but none of which
11 would give one -- one way or another they would not
12 speak for their agency.

13 Q. And which agencies were that -- was that --
14 which agencies are you speaking of when you say that
15 she had conversations with some?

16 A. Connie Maxwell was one that she mentioned to
17 me.

18 Q. Any others?

19 A. Not -- Thornwell, but they would not -- they
20 would not state one way or another for their agency.

21 Q. Okay. Earlier in this deposition you
22 mentioned that in the initial home study a Miracle
23 Hill licensing specialist would ask prospective
24 parents about the church that the family attends; is
25 that right?

1 A. Yes.

2 Q. And you would ask whether they take the kids
3 there; is that right?

4 A. Yes.

5 Q. And how involved the kids are -- to the
6 extent that they have children in their home how
7 involved those children are in the church; is that
8 right?

9 A. Correct.

10 Q. And I asked why Miracle Hill would ask those
11 questions, and you said we would want the family to be
12 attending church together and we would want to see
13 what they're teaching their children. Do you recall
14 that?

15 A. Yes.

16 Q. Now, as a representative for Miracle Hill on
17 topic 11, why does Miracle Hill want the family to be
18 attending church together?

19 A. To show a cohesiveness in a family unit just
20 as if a family member was involved in a opera, a sports
21 team, dance lessons, things like that, we would want
22 them to -- to be a stable family that would be able to
23 provide for foster children and to show a stable secure
24 family setting.

25 Q. And when you say that it is just -- to show

1 cohesiveness in a family just like going to sports
2 team and dance lessons, is there nothing unique about
3 going to church and what that represents to Miracle
4 Hill?

5 A. Yes, it is important, and it is part of our
6 requirements for partnering with us in becoming a
7 foster parent. So, yes, it would be important.

8 Q. Why does it matter whether the children are
9 taken to church?

10 MR. COLEMAN: This is Miles. Object to the
11 form of the question.

12 BY MS. SCHINDEL:

13 Q. You can answer.

14 A. The question one more time.

15 Q. Why does it matter to Miracle Hill in its
16 initial home study whether prospective foster family's
17 biological children are attending church with the
18 parents?

19 A. To show the foster family's, again,
20 cooperation together, family life, and what their
21 teaching and expectations for their children would be.

22 Q. And when you say teaching and expectations
23 for children, do you mean religious teaching?

24 A. Yes, as part of that. Uh-huh.

25 Q. Does it matter to Miracle Hill as part of its

EXHIBIT 13

South Carolina Department of Social Services
Child Placing Agency Administrative Fees

Provider Name	July 1, 2016 - June 30, 2017	July 1, 2017 - June 30, 2018	July 1, 2018 - June 30, 2019	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021	July 1, 2021 - January 31, 2022	Grand Total
CHILD ABUSE PREVENTION ASSOCIA			\$ 15,230.00	\$ 32,740.00	\$ 52,480.00	\$ 72,595.00	\$ 173,045.00
State General Funds			\$ 15,230.00	\$ 32,060.00	\$ 35,357.50	\$ 47,677.50	\$ 130,325.00
Federal Funds				\$ 680.00	\$ 17,122.50	\$ 24,917.50	\$ 42,720.00
CHURCH OF GOD HOME FOR CHILDREN			\$ 4,220.00	\$ 11,130.00	\$ 29,395.00	\$ 52,220.00	\$ 96,965.00
State General Funds			\$ 4,220.00	\$ 11,130.00	\$ 24,680.00	\$ 47,357.50	\$ 87,387.50
Federal Funds					\$ 4,715.00	\$ 4,862.50	\$ 9,577.50
CONNIE MAXWELL			\$ 14,540.00	\$ 22,540.00	\$ 77,625.00	\$ 124,805.00	\$ 239,510.00
State General Funds			\$ 14,540.00	\$ 22,540.00	\$ 58,315.00	\$ 95,242.50	\$ 190,637.50
Federal Funds					\$ 19,310.00	\$ 29,562.50	\$ 48,872.50
EPWORTH CHILDREN S HOME			\$ 28,720.00	\$ 110,570.00	\$ 298,490.00	\$ 398,815.00	\$ 836,595.00
State General Funds			\$ 28,720.00	\$ 110,420.00	\$ 218,015.00	\$ 280,067.50	\$ 637,222.50
Federal Funds				\$ 150.00	\$ 80,475.00	\$ 118,747.50	\$ 199,372.50
FAMILY PRESERVATION					\$ 10,455.00	\$ 21,510.00	\$ 31,965.00
State General Funds					\$ 7,005.00	\$ 15,467.50	\$ 22,472.50
Federal Funds					\$ 3,450.00	\$ 6,042.50	\$ 9,492.50
GROWING HOME SOUTHEAST					\$ 71,475.00	\$ 165,885.00	\$ 237,360.00
State General Funds					\$ 51,877.50	\$ 121,067.50	\$ 172,945.00
Federal Funds					\$ 19,597.50	\$ 44,817.50	\$ 64,415.00
JOHN K. CROSSWELL HOME FOR CHILDREN			\$ 4,290.00	\$ 12,830.00	\$ 18,275.00	\$ 28,120.00	\$ 63,515.00
State General Funds			\$ 4,290.00	\$ 12,830.00	\$ 14,720.00	\$ 19,085.00	\$ 50,925.00
Federal Funds					\$ 3,555.00	\$ 9,035.00	\$ 12,590.00
LUTHERAN FAMILY SERVICES					\$ 47,135.00	\$ 124,490.00	\$ 171,625.00
State General Funds					\$ 26,987.50	\$ 83,190.00	\$ 110,177.50
Federal Funds					\$ 20,147.50	\$ 41,300.00	\$ 61,447.50
MIRACLE HILL MINISTRIES INC	\$ 620,800.00	\$ 592,080.00	\$ 644,515.00	\$ 525,280.00	\$ 755,900.00	\$ 188,305.00	\$ 3,326,880.00
State General Funds	\$ 620,800.00	\$ 592,080.00	\$ 644,515.00	\$ 525,280.00	\$ 518,962.50	\$ 127,912.50	\$ 3,029,550.00
Federal Funds					\$ 236,937.50	\$ 60,392.50	\$ 297,330.00
NATIONAL YAP						\$ 19,660.00	\$ 19,660.00
State General Funds						\$ 18,132.50	\$ 18,132.50
Federal Funds						\$ 1,527.50	\$ 1,527.50
NEW FOUNDATIONS					\$ 6,835.00	\$ 31,205.00	\$ 38,040.00
State General Funds					\$ 6,835.00	\$ 29,225.00	\$ 36,060.00
Federal Funds						\$ 1,980.00	\$ 1,980.00

Provider Name	July 1, 2016 - June 30, 2017	July 1, 2017 - June 30, 2018	July 1, 2018 - June 30, 2019	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021	July 1, 2021 - January 31, 2022	Grand Total
NIGHTLIGHT CHRISTIAN ADOPTIONS					\$ 29,785.00	\$ 101,820.00	\$ 131,605.00
State General Funds					\$ 24,875.00	\$ 69,405.00	\$ 94,280.00
Federal Funds					\$ 4,910.00	\$ 32,415.00	\$ 37,325.00
OASIS OF HOPE						\$ 31,385.00	\$ 31,385.00
State General Funds						\$ 19,755.00	\$ 19,755.00
Federal Funds						\$ 11,630.00	\$ 11,630.00
SC YOUTH ADVOCATE PROGRAM INC					\$ 150,565.00	\$ 430,630.00	\$ 581,195.00
State General Funds					\$ 114,167.50	\$ 317,207.50	\$ 431,375.00
Federal Funds					\$ 36,397.50	\$ 113,422.50	\$ 149,820.00
SOUTH CAROLINA MENTOR					\$ 87,435.00	\$ 208,465.00	\$ 295,900.00
State General Funds					\$ 62,947.50	\$ 173,415.00	\$ 236,362.50
Federal Funds					\$ 24,487.50	\$ 35,050.00	\$ 59,537.50
SPECIALIZED ALTERNATIVE YOUTH					\$ 21,465.00	\$ 61,395.00	\$ 82,860.00
State General Funds					\$ 15,715.00	\$ 47,185.00	\$ 62,900.00
Federal Funds					\$ 5,750.00	\$ 14,210.00	\$ 19,960.00
THE BAIR FOUNDATION					\$ 78,610.00	\$ 140,990.00	\$ 219,600.00
State General Funds					\$ 53,107.50	\$ 102,767.50	\$ 155,875.00
Federal Funds					\$ 25,502.50	\$ 38,222.50	\$ 63,725.00
THORNWELL HOME FOR CHILDREN			\$ 23,510.00	\$ 52,550.00	\$ 119,545.00	\$ 132,445.00	\$ 328,050.00
State General Funds			\$ 23,510.00	\$ 52,550.00	\$ 88,817.50	\$ 107,582.50	\$ 272,460.00
Federal Funds					\$ 30,727.50	\$ 24,862.50	\$ 55,590.00
Grand Total	\$ 620,800.00	\$ 592,080.00	\$ 735,025.00	\$ 767,640.00	\$ 1,855,470.00	\$ 2,334,740.00	\$ 6,905,755.00

EXHIBIT 14

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION
Case No. 6:19-cv-01567-TMC
-----x
EDEN ROGERS and BRANDY WELCH,
Plaintiffs,
-against-
UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;
XAVIER BECERRA, in his official
capacity as Secretary of the UNITED
STATES DEPARTMENT OF HEALTH AND HUMAN
SERVICES;
ADMINISTRATION FOR CHILDREN AND
FAMILIES;
JOOYEUN CHANG, in her official
capacity as Assistant Secretary of
the ADMINISTRATION FOR CHILDREN AND
FAMILIES;
JOOYEUN CHANG, in her official
capacity as Principal Deputy
Assistant Secretary of the
ADMINISTRATION FOR CHILDREN AND
FAMILIES;
HENRY McMASTER, in his official
capacity as Governor of the
STATE OF SOUTH CAROLINA; and
MICHAEL LEACH, in his official
capacity as State Director of the
SOUTH CAROLINA DEPARTMENT OF SOCIAL
SERVICES,
Defendants.
-----x
July 8, 2022
DEPOSITION OF SHANEKA McDANIEL-OLIVER

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July 8, 2022

9:02 a.m.

Remote Videotaped 30(b)(6)
Deposition of South Carolina Department
of Social Services by SHANEKA
McDANIEL-OLIVER, taken pursuant to Notice
by Plaintiffs via Zoom before Dawn
Matera, a Certified Shorthand Reporter
and Notary Public for the State of New
York.

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1 A P P E A R A N C E S : (Continued)

2

3 Also Present:

4 ETHAN STRICKLAND, Summer Associate

5 GEORGINA WILSON, Summer Associate,

Cravath Swaine & Moore

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ROCCO MERCURIO, Videographer

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DAN ACOSTA, Concierge

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1 Did I read that correctly?

2 A. Yes, I believe you did.

3 Q. Thank you. Can you tell me why
4 this is called an emergency contract?

5 A. It is called an emergency
6 because -- well, if you ever worked for
7 Department of Social Services, we have
8 kids coming into foster care at all times
9 of the day and all times of the night.
10 At this time we did not have a contract
11 in place, so we needed time to do a full
12 solicitation in order to get something
13 out there. So this is the way to make
14 sure the kids are safe and their
15 well-being is taken care of, otherwise we
16 would have kids in offices, we would have
17 kids in hotels and other means, which is
18 definitely not appropriate. It is best
19 for them to be in a foster home. So this
20 was a way for us to do that, by an
21 emergency contract. We typically do that
22 if an emergency situation arrives and we
23 have to give justification for that.

24 Q. So just to make sure I'm
25 understanding that correctly, does that

1 mean there was not a standard contract in
2 place with non-therapeutic CPAs prior to
3 this one?

4 A. There was not a therapeutic --
5 non-therapeutic contract in place before
6 this contract.

7 Q. And can you just briefly
8 explain before this contract how DSS did
9 partner with CPAs if it wasn't through a
10 DSS contract?

11 A. So we have non-therapeutic and
12 therapeutic. Therapeutic contracts are
13 under -- was under a contract.
14 Non-therapeutics, which we considered as
15 our regular, I don't know how else to
16 define it, but it's our regular foster
17 home. They give a particular board rate.
18 So they didn't have a contract until this
19 time frame because we treated them like
20 we would for our DSS foster homes,
21 although they were CPA providers.

22 Q. I'm sorry, can you repeat, you
23 said you treated them as something foster
24 homes?

25 A. So DSS had foster homes also.

1 They still have to go through the
2 licensing process. And then you have
3 your private CPAs, which would be this,
4 our child placing agencies. Miracle
5 Hill, a couple of other ones are, was
6 treated like our DSS foster homes. When
7 they got this centralized board rate,
8 non-therapeutic kids placed in
9 non-therapeutic homes.

10 Q. I see. Thank you for that
11 clarification. Were there some that I
12 think happened prior to this contract
13 that motivated DSS to enter into a
14 standard contract with all CPAs at that
15 time?

16 A. So prior to the 2019 contract,
17 there was, Miracle Hill was receiving a
18 subsidy of \$10 per day per child. Other
19 organizations did not receive that. So
20 in 2019 we made sure that all of the
21 other organizations did receive that same
22 \$10 per day per child.

23 Q. And do you know if there was a
24 reason that only Miracle Hill received
25 that -- is there a name for that \$10 per

1 child per day, is it an administrative
2 fee?

3 A. Yes, it is considered an
4 administrative fee. So there was a memo
5 in around 2015. The memo's intent was
6 for kids -- we were having a very hard
7 time placing kids. We didn't have enough
8 non-therapeutic foster kids. There was a
9 memo that non-therapeutic kids can now be
10 placed in CPAs.

11 That memo was meant for
12 non-therapeutic kids to be placed in
13 therapeutic homes that have more of a
14 capacity than our non-therapeutic
15 providers, even our internal DSS
16 providers. So that is how this came
17 about, with Miracle Hill. And they saw
18 the memo. There was a word missing from
19 the memo that says therapeutic providers.
20 And Miracle Hill was a group care
21 provider, not a therapeutic provider.
22 Saw the memo and said we qualify.

23 Q. I see. And I think you
24 answered the question I am about to ask.
25 When you say that Miracle Hill was a DSS

1 foster home, are you referring to Miracle
2 Hill group, as a group foster care home?

3 A. So Miracle Hill is a
4 non-therapeutic foster care CPA agency
5 and they were a group home. So they had
6 two different structures.

7 Q. And they no longer have a group
8 home; is that right?

9 A. That is correct.

10 Q. Thank you. So the last part of
11 this sentence refers to, "This contract
12 is needed in the interim until the full
13 solicitation is available." Can you tell
14 me what solicitation that refers to?

15 A. So at that time we were in the
16 process of scoping a solicitation for
17 non-therapeutic providers.

18 Q. Was that solicitation ever
19 completed?

20 A. It was completed "and I am not
21 sure, but I believe that we actually put
22 out the solicitation, and because we had
23 a protest on our group care contract, we
24 did not want two protests going on at
25 the same time, because some of the

1 did not list it into this contract, then
2 I cannot tell you. There are licensing
3 requirements that requires training and
4 we have Foster Parent Association that
5 does training. But for me to sit here
6 and tell you to list that, that's not in
7 my capacity.

8 Q. So you wouldn't be able to say,
9 for example, what kinds of training and
10 support around cultural sensitivities DSS
11 requires CPAs to provide?

12 A. So we have a contract with the
13 Foster Parent Association that has
14 trainings in it. There are a list of
15 trainings in that contract. I did not
16 bring that contract with me to go through
17 what trainings that are offered, but I do
18 know that we have Foster Parent
19 Association that has particular trainings
20 related and to assist CPAs. And I am
21 sure that some CPAs may have their own
22 training also. But I can tell you that
23 we have a contract with the Foster Parent
24 Association for training.

25 Q. Do you know if this provision

1 requires compliance with the trainings
2 and that contract that you just
3 described?

4 A. So that contract is for the
5 Foster Parent Association, so it is
6 pretty much for foster parents to go
7 through training. I don't know if it's a
8 requirement, but I do know that we have
9 Foster Parent Association and there is a
10 list of trainings that they must comply.
11 I am sure that there is probably
12 information in the licensing regulations.
13 Maybe, you know, I would say I would lean
14 on licensing to tell you that more so
15 than me. I don't want to tell you
16 something that is incorrect.

17 Q. So those trainings might have
18 been, but not necessarily, those specific
19 trainings aren't necessarily required?

20 A. So again, I will tell you that
21 licensing would be the best person, the
22 best, you know, part of the organization
23 to answer that, because that's their role
24 and responsibility. I can tell you that
25 we have the CPA, we have the FPA

1 contract, which we call Foster Parent
2 Association that has training in it.
3 Again, I did not bring that contract to
4 go over which trainings there were, but
5 there is that contract that has
6 trainings, and those trainings are geared
7 towards foster parents.

8 Q. Thank you very much. I want to
9 go back to what we were talking about
10 earlier, how this contract has changed
11 over time, and specifically with Miracle
12 Hill. So you had mentioned before that
13 Miracle Hill, and please correct me if I
14 am misstating anything that you said, but
15 I believe you mentioned that at one point
16 Miracle Hill was the only non-therapeutic
17 CPA that was providing foster care
18 services that was being reimbursed for
19 those services; is that right? And that
20 had to do with the missing word in the
21 memo that Miracle Hill felt they -- that
22 they were entitled to those funds?

23 A. So Miracle Hill started
24 receiving the \$10 per day per child. The
25 intent was to go to our therapeutic

1 organizations, not non-therapeutic
2 organizations.

3 And because of the
4 interpretation of that language, Miracle
5 Hill received that \$10 per day per child.

6 Q. And at that time Miracle Hill
7 was providing group home foster care
8 services and was receiving that payment
9 for those particular group home services;
10 is that right?

11 A. So Miracle Hill had a group
12 home at that time and they were under a
13 contract for group home. And they didn't
14 have a therapeutic agency.

15 Q. Does the fact that Miracle Hill
16 was receiving those funds at that time,
17 does that mean that Miracle Hill was the
18 only non-therapeutic CPA providing those
19 foster care services at that time?

20 A. So repeat that?

21 Q. So the fact that Miracle Hill
22 was receiving \$10 per day per child at
23 that time, does that mean that Miracle
24 Hill was the only non-therapeutic CPA
25 providing those foster care services at

1 that time?

2 A. No, that does not mean that.
3 But I will tell you that if another
4 non-therapeutic CPA requested, we would
5 have given them the \$10 per day per child
6 also.

7 Q. So I want to turn to a
8 different section of this contract, to
9 the page ending in 250, which I think is
10 the very end. Let me know when you see
11 that. Are you on that page?

12 A. Yes.

13 Q. So this page is titled Change
14 Order Number 5 and dated July 15th, 2021;
15 is that right?

16 A. It's at the bottom? July 15th,
17 that change order was sent out and the
18 procurement office was asking for that to
19 be sent back by that date.

20 Q. I see. So we discussed change
21 orders a little bit earlier, but this is
22 generally how the standard
23 non-therapeutic CPA contract has changed
24 its terms and provisions?

25 A. Correct. If anything is

1 changed, the one that we were first on
2 was the first one, and if anything was
3 changed from that one on would have been
4 done through a change order.

5 Q. And you said these are
6 generally not individually negotiated.
7 But DSS issues them and there might be a
8 conversation about the contents of the
9 change order. But otherwise, they aren't
10 rejected by the CPA or negotiated by the
11 CPA?

12 A. So individually negotiated?
13 Typically not, because when you have
14 Miracle Hill and a couple of other
15 providers that are doing the same work,
16 you don't want to have that kind of
17 closed door conversation, because you are
18 doing the same work. You may be doing it
19 a little bit differently, but you're
20 doing the same type of work. So anything
21 that we would like to see as an
22 organization as DSS, we would have that
23 conversation collaboratively to make sure
24 that we are all on the same page, unless
25 it's something that just totally falls

1 administrative rate affect whether DSS
2 expects Miracle Hill to comply with the
3 contract service requirements?

4 A. No, DSS expects Miracle Hill to
5 comply with the service requirements.

6 Q. And is that true regarding
7 Federal and State law as well?

8 A. So anything that is not in this
9 change order we still expect Miracle Hill
10 and any other provider to comply with.

11 Q. And that also would include any
12 non-discrimination provisions that might
13 be included in the contract or Federal or
14 State law?

15 A. If it's included in the
16 contract, then we expect Miracle Hill and
17 other providers to comply.

18 Q. If you look on the next page on
19 251, it says at the top, "The provider
20 must provide SCDSS a yearly foster home
21 recruitment and retention plan by
22 August 15th, 2021."

23 The way I understand this
24 change order, that means that was a new
25 requirement that was not in the contract

1 before but was applicable to all other
2 non-therapeutic CPAs in South Carolina;
3 is that right?

4 A. So all of the providers have to
5 send in to licensing, to FP health, their
6 plans for obtaining foster homes.

7 Q. Can you just briefly describe
8 what those plans look like and what
9 information they include?

10 A. I can't provide or tell you
11 what that is. Again, you see that it
12 says to that FP statewide foster parent
13 liaison. That's outside of my scope. I
14 can't provide or tell you anything about
15 that because I am not sure.

16 Q. And is the statewide foster
17 parent liaison, is that part of DSS?

18 A. It is.

19 MR. RAY: This might be all I
20 have, but if you wouldn't mind if we
21 could take a quick break so I can look
22 over my notes to see if there is
23 anything else.

24 MR. COLEMAN: You're saying
25 that's the end of all of your

1 questions or just for this document?

2 MR. RAY: I might have more
3 questions, I just want to take a look
4 at my notes to make sure.

5 MR. COLEMAN: Okay.

6 THE VIDEOGRAPHER: Now going off
7 the record, the time is 10:27.

8 (Off the record.)

9 THE VIDEOGRAPHER: Now back on,
10 the time is 10:37.

11 BY MR. RAY:

12 Q. I think I just have a few more
13 clarifying questions and I will be
14 finished.

15 So going back to DSS's
16 relationship with non-therapeutic CPAs
17 before this contract was entered into, I
18 believe you indicated that there were
19 other non-therapeutic CPAs providing
20 foster care services, but they weren't
21 receiving the administrative rate for it;
22 is that right?

23 A. So we had other non-therapeutic
24 CPAs that were not receiving the \$10 per
25 day per child, but if they requested it,

1 we would have given it to them also.

2 Q. And does that mean that those
3 CPAs were not receiving funding through
4 DSS before this contract was entered
5 into?

6 A. No, that doesn't mean that. So
7 the provider, the foster homes get a
8 board rate. They weren't receiving the
9 \$10 per day per child. But the providers
10 are given a board rate and those go to
11 the foster homes.

12 Q. And so that's just a different
13 type of reimbursement that the
14 non-therapeutic CPAs were receiving,
15 that's different than the \$10 per child
16 per day?

17 A. So those go straight to the
18 foster homes that CPA providers have
19 licensed. The \$10 per child per day is
20 an administrative rate.

21 Q. I see. And then another
22 question. Sorry, if you can just clarify
23 what a board rate was before this
24 contract was entered into.

25 A. So a board rate, so for a,

1 quote unquote, and this is how I defined
2 it and used to define it before we called
3 it non-therapeutic. Our regular foster
4 home, even a DSS foster home, we have a
5 rate that we give foster parents. It's a
6 rate that's set by legislators and this
7 is the rate. So that's what CPA
8 providers, known as non-therapeutic to me
9 previously before this contract was
10 regular foster homes.

11 Q. I see. And they received that
12 rate because at that time DSS considered
13 them to be DSS foster homes; is that
14 right?

15 A. They are all, to me, they are
16 all homes that could be utilized for DSS
17 because they are licensed foster homes.
18 They are CPA providers, although the
19 private agency licensed them. They are
20 homes that DSS can still utilize because
21 they are foster homes, so our kids need
22 foster homes so we can still utilize
23 them. But they were getting a regular
24 board rate. I think the difference is
25 that you have non-therapeutic and

1 therapeutic. Those are the only two
2 differences that you would have in a
3 rate.

4 Q. I see, okay. That was very
5 clear, thank you. And one other
6 question. If a CPA was refusing to
7 conduct home studies to get any families
8 licensed, would that CPA be in compliance
9 with the requirement that it have
10 families available for placement?

11 A. So, again, I think for the
12 contract, it says contractor must make
13 foster homes for placement of children
14 approved. So we expect CPAs to have
15 those foster homes. If there was
16 something going on with the licensing
17 process, that's before we would actually
18 get involved. That's a licensing
19 standard and regulation.

20 Q. So if for whatever reason none
21 of a CPA's families were getting licensed
22 and the CPA was causing that, would that
23 put that CPA in breach of the contract?

24 A. So there is no recruitment,
25 there is no recruitment and pieces in

1 Q. There are a number of different
2 ways that a CPA could comply with this
3 requirement, right?

4 A. That is correct. We didn't
5 ascribe that in the contract.

6 Q. The requirement is that they
7 submit a plan?

8 A. Correct.

9 Q. As to how they go about doing
10 that, the contract is silent and so
11 that's a subject that you don't know
12 about, because that's someone else's area
13 and that is beyond what is required by
14 the contract?

15 A. That is correct.

16 Q. And then lastly, toward the end
17 of your testimony you said something, I
18 think, but I want to clarify, you may
19 have lapsed into a phrasing that
20 sometimes we use that may not technically
21 be correct. And I think we all
22 understand. But I want to make sure the
23 record is clear.

24 You're referring to what's
25 sometimes called the board rate or the

1 maintenance rate or payment that goes to
2 the family to provide foster care. And I
3 think you said that money goes to
4 families the CPAs have licensed. But
5 really the CPAs don't license any
6 families, do they, only DSS?

7 A. DSS does the licensing and
8 those funds go to those foster homes that
9 are licensed through DSS.

10 Q. The families might work with
11 the CPAs, but ultimately they are
12 licensed by DSS?

13 A. All homes are licensed by DSS
14 in South Carolina. All have to go
15 through the licensing process.

16 MR. COLEMAN: All right. Those
17 are the only questions I have.

18 Mr. Ray may have a few, Mr. Takemoto
19 may have a few, but I think I'm done.

20 MR. TAKEMOTO: I don't have any
21 further questions for the Federal
22 Defendants.

23 MR. RAY: I'm sorry, I just have
24 like two questions and then I promise
25 I will be finished.

1 EXAMINATION (Continued)

2 BY MR. RAY:

3 Q. So after the mistake in the
4 memo that resulted in Miracle Hill giving
5 that administrative rate, did DSS ever
6 tell any non-therapeutic CPA that they
7 would be eligible to receive that rate?

8 A. So I can imagine during that
9 time if a provider asked for that rate,
10 DSS would honor and provide them that
11 rate, that \$10 per day per child.

12 Q. But none of the other CPAs may
13 have known that that rate was available
14 to them?

15 A. So I've asked around, because
16 again in preparation for this, to ask why
17 didn't other providers get this rate, and
18 it is my understanding from asking around
19 that no other providers asked for this
20 rate. And so they were, Miracle Hill was
21 the only one getting the \$10 per day per
22 child until we did an emergency contract.

23 Q. And that might have been
24 because you didn't know about it, but you
25 just didn't know?

1 A. Again, I asked around, and
2 again in preparation for this, to see and
3 find out and did my due diligence of
4 trying to figure out, okay, Miracle Hill
5 is receiving this rate. Did other
6 providers receive this rate. Did other
7 providers request. And again, I wasn't
8 able to get that question answered.

9 Q. And then just one or two more
10 questions about the second page of the
11 change order regarding the foster home
12 recruitment and retention plan. I
13 believe you indicated in response to
14 Mr. Coleman's questions that there is no
15 specific form that plan must be submitted
16 in to DSS?

17 A. So when we sent out this change
18 order, we put the information in
19 accordance to what our program area
20 needs, the foster care recruitment plan,
21 and this is the information that's on
22 there. That plan actually goes to the
23 statewide foster parent liaison. So I
24 can't tell you how that form is sent to
25 them.

1 Q. But the plan must include
2 something about recruitment, right?

3 A. So it says foster home
4 recruitment and retention efforts.

5 Q. And if a CPA did not submit a
6 plan describing their recruitment
7 efforts, would they be in compliance with
8 this provision?


9 A. So if the CPA didn't submit a
10 plan, in whatever format, then I would
11 expect that our licensing department and
12 whoever uses statewide foster parent
13 liaison would get in contact and say we
14 didn't receive a plan from a particular
15 CPA.

16 Q. And because they didn't receive
17 a plan, that CPA would not be in
18 compliance with this requirement; is that
19 right?

20 A. So if the CPA didn't submit the
21 plan, the statewide foster parent liaison
22 would let me know and then I would follow
23 up with that CPA provider.

24 Q. And if that CPA provider
25 refused to provide a plan in response to

EXHIBIT 15

	<h2>State of South Carolina</h2> <p>Change Order# 5</p>	Contract Number: 4400021038 Date: 5/27/2021 Procurement Officer: Elizabeth M. Muenzenberger Phone: 803-898-1844 E-Mail Address: Elizabeth.M.Muenzenberger@dss.sc. Address: 1535 Confederate Avenue Columbia, SC 29201
		(Empty space for additional information)

DESCRIPTION: **Statewide Support for Non-Therapeutic Foster Families**
 USING GOVERNMENTAL UNIT: **South Carolina Department of Social Services**
 CONTRACTOR'S NAME AND ADDRESS: **Miracle Hill Ministries**

P.O. Box 2546
 Greenville, South Carolina 29602

TYPE OF CHANGE:

- Change to Contract Scope of Work
- Change to Contract Pricing Pursuant to Existing Contract Clause.

Clause Name:

Clause No.:

- Administrative Change to Contract (such as changes in paying office, name of Agency Contract Administrator, etc.)
- Other Change

IMPORTANT NOTICE:

- Change Order:** Contractor is required to sign this document and return **one (1)** copies to the procurement officer named above by the following date: **7/15/2021** Signed copy may be returned by email.
- Contract Modification:** Contractor is required to acknowledge receipt of this document in writing by the following date: Signed copy may be returned by email.

Contractor does not indicate agreement with change simply by acknowledging receipt.

DESCRIPTION OF CHANGE / MODIFICATION: (Attach additional pages if necessary)

This contract will be extended to July 1, 2021 through June 30, 2022. SCDSS will remove the administrative rate effective July 1, 2021 at Miracle Hill's written request not to receive these funds. A change to the Scope of Work has been listed on Page 2.

Except as provided herein, all terms and conditions of the Contract referenced above remain unchanged and in full force and effect.

CONTRACTOR'S CERTIFICATE OF CURRENT COST OR PRICING DATA: The Contractor certifies that, to the best of its knowledge and belief, the cost or pricing data (as defined by 48 C.F.R. 2.101) submitted, either actually or by specific identification in writing, by the Contractor to the Procurement Officer in support of this change order are accurate, complete, and current as of the date this change order is signed. [Procurement Officer must initial here _____ if Certificate inapplicable to this Change Order]
 (See "Pricing Data – Audit – Inspection" provision.) (Reference § 11-35-1830 & R. 19-445.2120)

SIGNATURE OF PERSON AUTHORIZED TO EXECUTE THIS CHANGE ORDER & CERTIFICATE ON BEHALF OF CONTRACTOR:

By: Ryan Duerk
Digitally signed by Ryan Duerk
 Date: 2021.07.19 15:36:23 -04'00'
 (authorized signature)

Ryan T. Duerk
 (printed name of person signing above)

Its: CEO
 (title of person signing above)

Date: 7.19.21

SIGNATURE OF PERSON AUTHORIZED TO EXECUTE / ISSUE THIS CHANGE ORDER / CONTRACT MODIFICATION ON BEHALF OF USING GOVERNMENTAL UNIT:

By: Susan Roben
Digitally signed by Susan Roben
 Date: 2021.07.20 10:50:00 -04'00'
 (authorized signature)

Susan Roben
 (printed name of person signing above)

Its: Chief Financial Officer
 (title of person signing above)

Date: 7/20/2021

The Provider must provide SCDSS a yearly Foster Home Recruitment and Retention Plan by August 15, 2021. Foster Home Recruitment and Retention efforts must be submitted to SCDSS on a quarterly basis to the Statewide Foster Parent Liaison. Reports must be submitted via email to FPhelp@dss.sc.gov.

Monthly Rate Effective 7/1/2021 - 6/30/2022

Age	Rate per Month
0-5 Years	\$605.00
6-12 Years	\$708.00
13+ Years	\$747.00

END OF CHANGE ORDER FIVE

EXHIBIT 16



Miracle Hill Ministries' Spiritual Identity

FAQ's

Q: How does Miracle Hill Ministries define itself as a ministry?

A: Miracle Hill Ministries is an evangelical, Gospel-infused Christian mercy ministry that is committed to sharing the Gospel of Jesus Christ while serving the needy and vulnerable in Christ's name. Christians who share our commitment to the Gospel, embrace our doctrinal statement through belief and practice, and are active in a Christian church are valued ministry partners.

Q: Miracle Hill ascribes to a ministry model very similar to that of the Billy Graham Evangelistic Association. How does this model affect the way your organization carries out its operations and activities?

A: The Billy Graham Evangelistic Association has been able to effectively work with Christians from many backgrounds and traditions by maintaining a clear statement of faith, vetting staff and volunteers carefully to ensure like-mindedness and focusing on its primary mission of proclaiming the Gospel of Jesus Christ. Miracle Hill Ministries, likewise, seeks to serve the homeless and hurting in Christ's name by upholding our commitment to sharing the Good News of Jesus Christ and by ensuring that followers of Jesus Christ who serve with us believe and practice our doctrinal statement of faith.

Q: Why did you change your policy concerning non-Protestants serving as foster parents?

A: We are grieved that the recent religious freedom struggle surrounding our foster care program has been characterized in the media as a fight about the "right kind of Christian". In today's cultural climate that is already becoming increasingly hostile to Christianity, we cannot afford to be distracted or deterred in our commitment to the Gospel of Jesus Christ. We are not called to express judgements about various branches of Christianity or denominations within Protestantism. Our identity is that brothers and sisters in Christ work together to minister to the needy, stand for sound doctrine, and spread the Gospel of Jesus Christ.

Q: How will you determine if someone meets your criteria to serve as a foster parent, mentor or employee?

A: Our mission statement and doctrinal statement of faith will guide our interview process as we invite followers of Jesus Christ to partner with us in ministry to share the Good News of Christ and minister to the needy in His name.

SDF/5-9-19

Q: What about the people Miracle Hill serves? Do they have to ascribe to a particular faith?

A: Miracle Hill Ministries always has and always will serve anyone who comes to us for help, regardless of their faith or no faith at all. Although people in our care will hear the Good News of Jesus Christ, embracing Christianity is a not a requirement for receiving services. Additionally, for more than 80 years, Miracle Hill has worked collaboratively with religious and secular community partners alike to meet the needs of those in the Upstate experiencing homelessness.

SDF/5-9-19

EXHIBIT 17

From: BrandyWelch [REDACTED]
Sent: Sunday, April 28, 2019 6:02 PM
To: Sharon Betts; Brenda Parks; Yvette Bates
Subject: New submission from Foster Care Inquiry

Agreement with Doctrinal Statement
<ul style="list-style-type: none">• Yes
Name
Brandy Welch
Email
[REDACTED]
Address
[REDACTED] Map It
Phone
[REDACTED]
Date of Birth
[REDACTED]
Marital Status
Married
Spouse Name
Eden Rogers
Spouse's Date of Birth
[REDACTED]
Spouse's Email
[REDACTED]
Spouse's Phone
[REDACTED]
How did you hear about Miracle Foster Care?
We live in Greenville, SC and Miracle Hill has a large presence here.
Why I want to be a foster parent (Check all that apply)
<ul style="list-style-type: none">• I would like to help a child do something good with his/her life.• I know there are children who need homes, and I think I should help.
Tell us any other reasons you would like to be a foster parent.

Even if it is for a short period of time, we would like for more children to know what it feels like to be unconditionally loved and to be part of a loving family. We can provide a safe and loving environment.

Please give a brief, personal testimony of your faith/salvation in Jesus Christ. If you are married, please include your spouse's testimony as well.

My wife and I have very similar testimonies. We were both raised in Christian homes, and were both active in church through our childhood and teenage years. I was part of a Presbyterian church and my wife was part of a Baptist church. As we have had life experiences and grown into the people we are today, and as a same-sex couple, we feel comfortable with the Unitarian Universalist Church here locally, which embraces diverse religious backgrounds. For us, the core religious value of love is most important.

Accept Terms?

- I accept the Terms & Conditions.

EXHIBIT 18



Miracle Hill
MINISTRIES

Doctrinal Statement

We believe

the Bible is the only inspired, infallible, inerrant and authoritative Word of God. **2 Tim. 3:16; 2 Pet. 1:20-21**

We believe

there is one God, creator of heaven and earth, eternally existent in three distinct persons: Father, Son and Holy Spirit. **1 Tim. 2:5; Gen. 1:1; Mt. 3:16-17; Mt. 28:19; 2 Cor. 13:14; John 10:30**

We believe

in the deity and humanity of Jesus Christ; that He was born of a virgin; we are redeemed by His atoning death through His shed blood; He bodily resurrected and ascended into Heaven and He will come again in power and great glory to judge the living and the dead. **Eph. 1:7-10; Acts 1:9-11; Mt. 1:23-25; 1 Cor. 15:1-8; 2 Tim. 4:1**

We believe

in the value and dignity of all people, created in God's image but alienated from God and each other because of our sin and guilt and justly subject to God's wrath. **Gen 1:26-27; Psalm 139:13; Mt. 22:37-39; Rom. 12:20-21; Gal.6:10; Eph. 2:1-3; Rom. 5:12**

We believe

that regeneration by the Holy Spirit by grace through faith is essential for the salvation of lost and sinful people. **Tit. 3:4-7; Eph. 2:8-9; 2 Cor. 6:2**

We believe

in the forgiveness of sins, the resurrection of the body and life everlasting solely through repentance and faith in Jesus Christ. **Col. 1:13-14; 1 Thess. 4:16-17; John 3:16**

We believe

that the Holy Spirit unites all believers in the Lord Jesus Christ and together they form one body, the church. **1 Cor. 12:12-13; 1 Cor. 12:27**

We believe

God ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption. We believe God's design for marriage is the legal joining of one man and one woman in a life-long covenant relationship. **Gen. 1:26-28; Eph. 5:21-6:4; Mt. 19:4-6**

We believe

God creates each person as either male or female, and these two distinct, complementary sexes together reflect the image and nature of God. **Gen. 1:27; Gen. 2:18**

EXHIBIT 19

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UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

EDEN ROGERS
and
BRANDY WELCH,
Plaintiffs,

vs. CASE NO. 6:19-CV-01567-JD

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
SERVICES; ALEX AZAR, in his official capacity as
Secretary of the UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES; ADMINISTRATION FOR CHILDREN AND
FAMILIES; LYNN JOHNSON, in her official capacity as
Assistant Secretary of the ADMINISTRATION FOR
CHILDREN AND FAMILIES; STEVEN WAGNER, in his
official capacity as Principal Deputy Assistant
Secretary of the ADMINISTRATION FOR CHILDREN AND
FAMILIES; HENRY MCMASTER, in his official capacity
as Governor of the STATE OF SOUTH CAROLINA;
and MICHAEL LEACH, in his official capacity as
State Director of the SOUTH CAROLINE DEPARTMENT OF
SOCIAL SERVICES,
Defendants.

VIDEOTAPED VTC

30 (b) (6)

DEPOSITION OF: MIRACLE HILL MINISTRIES, INC.
BY: REID DAVID LEHMAN
(Appearing by VTC)

DATE: June 17, 2021

TIME: 9:20 AM

LOCATION: Haynsworth, Sinkler, Boyd
1 North Main Street, 2nd Floor
Greenville, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: Susan M. Valsecchi, RPR, CRR
Certified Realtime Reporter
(Appearing by VTC)

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ATTORNEYS FOR THE DEFENDANTS

UNITED STATES DEPARTMENT OF HEALTH AND
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Darren Carreras, Videographer
Rick Christian, Concierge
Maia Zelkind, Paralegal

(INDEX AT REAR OF TRANSCRIPT)

1 interview that they conduct and their assessment of
2 that person's lifestyle?

3 A. So if someone said to me that I have --
4 I have experienced same-sex attraction, but I agree
5 with your doctrinal statement and I'm living in
6 celibacy and purity, we would be glad to work with
7 them as a foster parent.

8 If someone said to me --

9 Q. If --

10 A. I'm sorry?

11 Q. No, no, go on. My apologies.

12 A. If someone said to me I struggle with
13 my gender identity, but I am -- I agree with your
14 doctrinal statement and I'm living according to the
15 gender I received at birth, we would be glad to
16 work with them as a foster parent.

17 Q. And what if someone -- to meet your
18 terminology -- was experiencing same-sex attraction
19 and were in a same-sex marriage, would you be
20 willing -- and were willing to sign the doctrinal
21 statement -- would you be willing to work with that
22 person?

23 A. No, because that's a violation of our
24 Bible -- Biblical statement on what marriage is.

25 Q. To your knowledge, how many families

1 have been turned away because of their faith or
2 lack thereof or because they're in a same-sex
3 relationship?

4 A. I don't have knowledge of that. More
5 than 15.

6 Q. Do you know whether any of those
7 families went on to approach other CPAs?

8 A. I do not know.

9 Q. So I think we've been going for about
10 an hour. I would be fine taking a five-minute
11 break if you'd like, or I'm happy to continue.

12 A. A five-minute break would be welcome,
13 thank you.

14 MS. SCHINDEL: All right.

15 MR. MATTHEWS: Rebecca --

16 THE VIDEOGRAPHER: The time is 10:17
17 a.m. We are going off the record.

18 (A brief recess was held.)

19 THE VIDEOGRAPHER: The time is 10:25
20 a.m. We are back on the record.

21 BY MS. SCHINDEL:

22 Q. Mr. Lehman, I want to make sure I
23 understand Miracle Hill's position with respect to
24 its doctrinal statement.

25 If an applicant identified with a sex

1 different than the sex that that person was
2 assigned at birth and were willing to sign the
3 doctrinal statement, would Miracle Hill work with
4 that individual?

5 A. So I'm not sure what you mean with
6 'identifies with a different sex.'

7 What I'm saying is that if they
8 struggle with their identity, their gender
9 identity, but they were willing to live according
10 to their birth -- their gender identity given at
11 birth -- and agree with our doctrinal statement,
12 they would qualify to serve as a foster parent.

13 Q. So if this person struggled with their
14 gender identity but dressed in accordance -- if
15 they were born a man and dressed as a man but
16 struggled with their gender identity, that person
17 would be qualified; is that right?

18 A. Yes, that's correct.

19 Q. And if that same person, same struggle
20 with the gender identity, born as a man, dressed as
21 a woman, would that person qualify?

22 A. No, because they would not be living
23 according to our doctrinal statement.

24 Q. And if a person experienced same-sex
25 attraction but did not have any sex with somebody

1 of the same sex, would that person qualify -- and
2 was willing to sign the doctrinal statement --
3 would that person qualify?

4 A. Yes, if they're a committed Christian
5 and these doctrinal statements reflect their
6 beliefs, yes, they would.

7 Q. And if that same person were willing to
8 sign the doctrinal statement, experienced same-sex
9 attraction and had sex with people of the same sex,
10 would that person qualify?

11 A. No. But I should point out that a
12 heterosexual who is having sex with people they're
13 not married to would not qualify either.

14 Q. Right. What are -- are you familiar
15 with Miracle Hill Main Street's Childrens
16 Residential Services?

17 A. Somewhat familiar with them, yes.

18 Q. What are those?

19 A. Well, they've changed. At the time of
20 the filing of the lawsuit, we had three children's
21 homes and we also had our foster care division.
22 Today the three children's homes are all closed and
23 we have only foster care in terms of children
24 services. And we also care for mothers with their
25 children.

1 Q. And when did those -- so those
2 children's homes are essentially group homes for
3 foster children; is that right?

4 A. That's correct.

5 Q. And when did they close?

6 A. Homes For Life closed -- I don't
7 remember exactly -- I think it was in 2018 or '19.
8 Miracle Hill Children's Home closed in the spring
9 of 2020. And Miracle Hill Boys Shelter closed in
10 December of 2020.

11 MS. SCHINDEL: Okay. So let's take a
12 look now at the document ending in 7759, and we'll
13 mark this as Exhibit 8.

14 And, Serena, this is Tab 66.

15 (EXHIBIT 8, Miracle Hill Ministries
16 Children's Residential Services Operations Manual,
17 was marked for identification.)

18 THE WITNESS: I have it.

19 MS. SCHINDEL: Okay, we're just waiting
20 for it to upload here.

21 This is Exhibit 8, Bates-stamped
22 MIRACLE_HILL_SUBP_007759 to 7868.

23 BY MS. SCHINDEL:

24 Q. Do you recognize this document?

25 A. Yes, I do.

1 Q. And this is Miracle Hill Ministries
2 Children's Residential Services Operations Manual;
3 is that right?

4 A. As of that date, yes.

5 Q. And when you say as of that date, do
6 you know what date that is?

7 A. In the table of contents it says
8 revised in 2015 by Lori Bailey.

9 Q. And do you know if this document has
10 been updated since 2015?

11 A. I'm sure that it has, but I don't
12 know -- I don't know when and I don't know how --
13 if it's been more than once.

14 Q. So this was at least the operative
15 manual as of 2015?

16 A. I'm sorry, it was the appropriate
17 manual as of 2015, yes.

18 Q. To your knowledge, does Miracle Hill
19 staff -- is Miracle Hill's staff required to abide
20 by this document to the extent that they're
21 involved in Miracle Hill's group homes?

22 A. I don't know where the question is
23 going. The parts of the document that accurately
24 reflect Miracle Hill, yes, our staff are required
25 to abide by it.

1 instead of getting a 1-year license we were given a
2 6-month license, understanding that it was a
3 provisional license.

4 Q. And to comply, Miracle Hill understood
5 that would mean that it would need to stop
6 discriminating against potential foster parents on
7 the basis of sexual orientation and religion?

8 A. Yes.

9 Q. And was a condition of the provisional
10 license that Miracle Hill submit a written plan of
11 compliance?

12 MR. MATTHEWS: Object to the form of
13 the question.

14 THE WITNESS: I don't -- I don't
15 remember seeing the need for a written plan, but I
16 don't know that. I don't recall the documentation
17 said that.

18 MS. SCHINDEL: So let's mark Tab 12,
19 which is Bates-stamped 10545-B, as in boy, 012.

20 (EXHIBIT 15, License Status Letter, was
21 marked for identification.)

22 THE WITNESS: Okay. As I look at the
23 letter, I see that -- I told you I didn't think
24 they asked for a written plan, but on Page 2 it
25 does say that they asked for a written plan of

1 compliance within 30 days.

2 BY MS. SCHINDEL:

3 Q. Does that refresh your recollection,
4 that this is required?

5 A. Yes, it does.

6 Q. And did Miracle Hill ever issue the
7 written plan of compliance as required by DSS?

8 A. We did not.

9 Q. And why is that?

10 A. Because we felt it was infringing upon
11 our religious liberty.

12 Q. Did DSS ultimately require Miracle Hill
13 to submit a written plan of compliance before
14 issuing a --

15 A. No.

16 Q. I'm sorry, what was that?

17 A. They did not.

18 Q. Did Miracle Hill otherwise address the
19 concerns that DSS had raised with regard to Miracle
20 Hill's discrimination against prospective foster
21 parents?

22 A. We made no changing -- we made no
23 changes in our recruitment process, no.

24 Q. What did Miracle Hill do, instead, upon
25 receiving this information from DSS?

1 A. I'm sorry, would you repeat the
2 question?

3 Q. Sure.

4 What did Miracle Hill do -- rather than
5 submit a written plan of compliance, what did
6 Miracle Hill do in response to receiving this
7 request from DSS that it change its policies and
8 practices?

9 A. We approached the Governor's office and
10 asked for help with the situation, and we began
11 talking to state legislators, asking for their
12 help.

13 Q. Who approached the Governor's office?

14 A. I don't know if our attorney approached
15 them or not, but Beth Williams, who is our vice
16 president of children's ministries, talked to
17 Richele Taylor in the governor's office.

18 Q. Did anybody else participate in those
19 conversations?

20 A. No.

21 Q. And just for the record, we actually
22 ended up talking about this exhibit before I
23 introduced it, but the document that we were
24 looking at was Exhibit 15, and it was Bates-stamped
25 10545-B-012 to 014. And you recognize this as the

1 letter that Miracle Hill received from DSS; is that
2 right?

3 A. I'm sorry, would you give me the name
4 again.

5 Q. Oh, this -- yes. This is the 10545-B,
6 as in boy, 012.

7 MR. MATTHEWS: The one we were just
8 looking at.

9 THE WITNESS: Okay. Yes, I do
10 recognize this as the letter that we received from
11 DSS.

12 MS. SCHINDEL: And now let us take a
13 look at a document with the Bates stamp Miracle --
14 It's a Miracle Hill document ending in 12724. And
15 this is Tab 18.

16 (EXHIBIT 16, Help Protecting Miracle
17 Hill's Foster Care Program E-mail, was marked for
18 identification.)

19 THE WITNESS: Okay, I have it.

20 BY MS. SCHINDEL:

21 Q. And the second e-mail in the
22 chain -- well, apologies, let me back up. Do you
23 recognize this document as e-mails between you and
24 Beth Williams and others?

25 A. 012724. Hang on, I'm not sure I have

1 the right document. Let me ask my attorney, if
2 that's all right.

3 MR. MATTHEWS: Ask Ms. Schindel. What
4 page are you starting at? This document, Rebecca,
5 begins at Page 12721 for us. 12724 appears in the
6 middle of it. So what are you looking at?

7 MS. SCHINDEL: You're right, I am
8 looking at the -- it appears to be a document
9 that's a composite of e-mails, but I am looking at
10 012724.

11 MR. MATTHEWS: 724, okay.

12 This is the e-mail from Beth Williams
13 to Richele Taylor, is that the one?

14 MS. SCHINDEL: That's right.

15 MR. MATTHEWS: Got it, okay.

16 THE WITNESS: Yes, I have it. Thank
17 you for your patience.

18 BY MS. SCHINDEL:

19 Q. Oh, no, thank you. And this is -- do
20 you recognize this e-mail as -- as an e-mail that
21 was sent from Beth Williams to Richele Taylor,
22 copying you, on February 21st, 2018?

23 A. Yes, I do.

24 Q. And did you receive this e-mail in the
25 normal course of your work at Miracle Hill?

EXHIBIT 20

Study

Foster Care FAQ

Q: Why do you recruit only Protestant Christian foster parents?

A: Miracle Hill is first and foremost a Christian ministry, not a social services agency. We have a long history of serving homeless children and adults with a gospel-driven mission. Our mission statement is clear: ***Miracle Hill exists that homeless children and adults receive food and shelter with compassion, hear the good news of Jesus Christ, and move toward healthy relationships and stability.*** Because we consider foster parents partners in ministry and because foster parents are in a position of spiritual influence, we recruit those who share our key doctrinal beliefs, including our beliefs on marriage: *We believe God ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption. We believe God's design for marriage is the legal joining of one man and one woman in a life-long covenant relationship.*

Protecting the rights of religious providers doesn't exclude others; it simply means that people of faith who prefer to partner with a provider who shares their religious motivation are able to do so and are thus more likely to become foster parents.

Q: Aren't you limiting the ability of non-Christian foster parents to participate in the system?

A: No, we are not limiting access at all. Anyone who wants to foster can do so through their local Department of Social Services. That is always an option. Additionally, there are several other private/non-profit agencies besides Miracle Hill that recruit and support foster families in the Upstate. A listing can be found at www.care2foster.org. When individuals who hold different religious beliefs contact us, we're pleased to help them connect to other agencies that will be a better fit or refer them directly to DSS. Prospective foster parents do have choices.

Q: How do you determine if someone meets your criteria?

A: Prospective foster parents complete an online inquiry form which helps us determine not only if they live within the geographic region we serve but also if they identify as a Protestant Christian who is desiring to partner with us in ministry.

Q: What do you do when a Jewish, Muslim, Hindu or another person with a different belief system, or no belief at all, inquires about becoming a foster parent?

A: When individuals who hold different religious beliefs (or no beliefs at all) contact us, we're pleased to help them connect to other agencies that will be a better fit or refer them directly to DSS. Every qualified person in every county in the state who wishes to become a foster parent is still able to do so.

Additionally, we are in favor of other organizations forming in order to provide more foster homes in our state, and we would advocate for the right of other (non-Christian) religious or non-religious organizations to license and serve foster families.

Q: If your foster care program has been operating since 1988, why is there a problem now?

A: In the final days of the Obama administration (early 2017), the US Department of Health and Human Services added a prohibition against religious discrimination to the regulation that covers organizations providing social services. Because South Carolina DSS works with HHS for funding, DSS had to assess whether or not any organizations they had been working with were using a religious screen for prospective foster parents. Because Miracle Hill recruits only Protestant Christian parents, we were told that this practice is unlawful. We were told that our license would not be renewed unless we abandoned our Christian standards.

Q: Besides your doctrinal beliefs, what else makes Miracle Hill different from other foster care agencies?

A: Our program puts a special emphasis on caring for the foster parents. Our theme of “You Matter” helps remind our staff that it is important for us to consistently find ways to support our parents physically, emotionally and spiritually. For example, we regularly seek out and connect with community partners to supply items needed (cleaning supplies, school supplies, clothing, etc.). Our staff also regularly pray for the families under their care.

Q: Why did you ask Governor McMaster and the state legislature to intervene on your behalf?

A: When DSS threatened Miracle Hill Foster Care with the loss of our license, we knew that government intervention on our behalf would be needed in order to continue operating according to our religious convictions. Regardless of funding, if we do not have the right to exist, then the pool of foster families in South Carolina will be decreased. Faith-based organizations should be allowed to exist and operate according to their beliefs.

Q: If the shortage of foster parents is so severe in South Carolina, why not accept anyone into your program?

A: Every qualified person in every county in the state who wishes to become a foster parent is able to do so. Our partnering with like-minded people of faith doesn't limit access nor does it prevent anyone from fostering. Miracle Hill adds to the pool of foster homes in South Carolina by proactively recruiting people of faith who prefer to partner with a provider who shares their religious motivation. If we are not allowed to recruit according to our religious beliefs, then we would no longer be fulfilling our mission. As a religious organization, it is not our responsibility to do the job of DSS. We are simply a valued partner seeking to do what we can to help.

Q: Can single or divorced people participate in your program?

A: Yes, single or divorced people are welcome to participate in our program. Like other foster parents, they must support our doctrinal statement and beliefs on marriage.

Q: If a gay or lesbian married couple is Christian, can they foster through Miracle Hill?

A: No, we would not be able to work with a gay or lesbian married couple because they would not accept our beliefs on marriage: *We believe God ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption. We believe God's design for marriage is the legal joining of one man and one woman in a life-long covenant relationship.* We have never opposed the licensing of prospective foster parents with whom we disagree on religious matters. We would encourage the couple to consider volunteering with any of the many other organizations available, including their local DSS office.

Q: What kind of government funding do you receive for your foster care program?

A: Until three years ago, Miracle Hill was not reimbursed for any expenses related to foster care. At that time, DSS requested that we and other foster care agencies increase our efforts to recruit foster parents, and because we had exhausted our available funds we agreed to do so if they could help with some of the costs. That's when we began to receive partial reimbursements for the children DSS chooses to place with our foster parents. We receive funding only if DSS chooses to place a child with us. The reimbursements *do not* cover our cost of recruiting foster parents. Additionally, the reimbursements only cover about half of what it costs us to provide care coordination for our foster families.

Q: What other sources of funding does your foster program receive?

A: Our organization is primarily funded by private donations. We receive some funding through grants and organizations.

Q: How do children get placed with a Miracle Hill foster family?

A: DSS has the sole responsibility for placing children in foster homes and can decide which foster care agency they would like to work with for a particular child. DSS does not have to choose to work with Miracle Hill at all. Although Miracle Hill Foster Care is called a child placing agency (CPA) by the state, we do not actually place the children.

Q: Do foster children have to attend church or participate in other kinds of religious activities with your foster parents?

A: Foster children participate in as many activities as possible with their foster family, just as a biological child would do. However, if a foster child's biological parents have specifically requested that their child not participate in religious activities, the foster family would have to respect those wishes. DSS has the responsibility to inform prospective foster parents about those wishes prior to placement so that the prospective parents can decide if they are able to fulfill the biological parents' request.

Q: What happens to a foster child who does not come from a Christian background?

A: Biological parents have the right to tell DSS that they want their child placed/not placed in a home that is of a particular religion. Foster families are required by DSS to respect the religious backgrounds of the children who come into their homes. If the prospective foster parent is not able to do so, then DSS will not place the child in that particular home.

Q: If the Department of Health and Human Services does not provide a waiver to allow you to continue recruiting like-minded people of faith, what will happen to your foster care program?

A: We don't know for sure, but we think DSS may not renew our license, thereby ending our ability to serve as a child placing agency.

Q: If, until three years ago, you were providing foster parents without government aid, why not end the controversy and do what you can with private funding?

A: Because of the new HHS regulation enacted in 2017, the issue is now one of licensing, not funding. DSS has been put on notice about working with agencies that have a religious requirement. Even if we no longer take funding, DSS may not be allowed to license and work with us as a child placing agency (CPA). Without a license, what we are able to actually do in the foster care arena will be limited, if not prevented entirely.

EXHIBIT 21



Miracle Hill
MINISTRIES



Agreement with Doctrinal Statement *

As an evangelical Christian foster care agency, we believe foster parents are in a position of spiritual influence over the children in their homes. Therefore, we require that foster parents who partner with us be followers of Jesus Christ, be active in and accountable to a Christian church, and agree in belief and practice with our doctrinal statement (found below and on our website at <http://miraclehill.org/who-we-are/doctrinal-statement/>). Before proceeding, please read our doctrinal statement. If after reading our doctrinal statement you find that Miracle Hill Foster Care is not a good fit for you, please let us connect you with another agency that can meet your needs. -----Doctrinal Statement----- We believe: ---the Bible to be the only inspired, infallible, inerrant and authoritative Word of God. (2 Tim. 3:16; 2 Pet. 1:20-21) ---that there is one God, creator of heaven and earth, eternally existent in three distinctive persons: the Father, Son and Holy Spirit. (1 Tim. 2:5; Gen. 1:1; Mt. 3:16-17; Mt. 28:19; 2 Cor. 13:14; John 10:30) ---in the deity and humanity of Jesus Christ; that He was born of a virgin; that we are redeemed by His atoning death through His shed blood; that He bodily resurrected and ascended into heaven and that He will come again in power and great glory to judge the living and the dead. (Eph. 1:7-10; Acts 1:9-11; Mt. 1:23-25; 1 Cor 15:1-8; 2 Tim 4:1) ---in the value and dignity of all people created in God's image, but alienated from God and each other because of our sin and guilt and justly subject to God's wrath. (Gen. 1:26-27; Psalm 139:13; Mt. 22:37-39; Rom. 12:20-21; Gal. 6:10; Eph. 2:1-3; Rom. 5:12) ---that regeneration by the Holy Spirit by grace through faith is essential for the salvation of lost and sinful people. (Tit. 3:4-7; Eph. 2:8-9; 2 Cor. 6:2) ---in the forgiveness of sins, the resurrection of the body, and life everlasting solely through repentance and faith in Jesus Christ. (Col. 1:13-14; 1 Thess. 4:16-17; John 3:16) ---that the Holy Spirit unites all believers in the Lord Jesus Christ and that together they form one body – the church. (1 Cor. 12:12-13; 1 Cor. 12:27) --- God ordained the family as the foundational institution of human society. It is composed of persons related to one another by marriage, blood or adoption, and that God's design for marriage is the legal joining of one man and one woman in a life-long covenant relationship. (Gen. 1:26-28; Eph. 5:21-6:4; Mt. 19:4-6) ---God creates each person as either male or female, and these two distinct, complementary sexes, together reflect the image and nature of God. (Gen. 1:27; Gen. 2:18)

Yes, I have read and agree with Miracle Hill's doctrinal statement.

Exhibit
0018



Name *

First

Last

Email *

Address *

Street Address

Address Line 2

City

State / Province / Region

ZIP / Postal Code

Phone *

Date of Birth *

Yes, I would like to receive e-mail from Miracle Hill Ministries.

Marital Status *

Married

Spouse Name

[Redacted]

Spouse's Date of Birth

[Redacted]

Spouse's Email

[Redacted]

Spouse's Phone

[Redacted]

How did you hear about Miracle Foster Care? *

[Redacted]


Why I want to be a foster parent (Check all that apply) *

- My children are older, or gone, and I want to have children around again.
- I would like for my child(ren) to have someone to play with.
- I would like to help a child do something good with his/her life.
- I need the money and I would rather work in my home.
- I think I am a good parent.
- I have no children and would like to try being a parent.
- I would really like to adopt a child, but the wait is so long.
- I know there are children who need homes, and I think I should help.
- I think I have good skills for working with children and would like to use them.
- My spouse really wants to get into foster parenting.

What age ranges of children are you are willing to foster? *


How many children are you willing to foster at the same time? *

Tell us any other reasons you would like to be a foster parent.



Miracle Hill Ministries is a non-denominational, Christian organization based upon a protestant statement of faith. All children entrusted to our care are to be cared for in an atmosphere that is conducive to spiritual growth, development, and moral direction.

Church you currently attend *



Please give a brief, personal testimony of your faith/salvation in Jesus Christ. If you are married, please include your spouse's testimony as well. *



Miracle Hill Mission Statement

Miracle Hill exists that homeless men, women and children receive food and shelter with compassion, hear the Good News of Jesus Christ and become productive members of society.

Terms and Conditions

I have read and agree to the requirements set forth by both the state of SC and Miracle Hill Ministries and located on the Foster Care page of MHM's website.

To the best of my knowledge, all the information provided on this form is correct. I understand that Miracle Hill will use this information for preliminary screening, and at this time I am not committing to becoming a foster parent, but rather indicating an interest, and I will be contacted for further discussion.

Accept Terms? *

I accept the Terms & Conditions.

Submit



Miracle Hill
MINISTRIES

490 S. Pleasantburg Drive
Greenville, SC 29607

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864.268.4357

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Notice: Cold weather shelters are open tonight at all Miracle Hill Rescue Mission locations. [Learn More](#)

