

Report to the Colorado General Assembly:

LICENSING AND REGULATION OF CHILD CARE FACILITIES



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 70

DECEMBER 1962

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OF CHILD CARE FACILITIES

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 70
December, 1962

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December 5, 1962

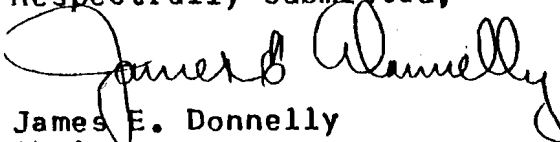
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To Members of the Forty-fourth Colorado General Assembly:

As directed by the terms of House Joint Resolution No. 14 (1962), the Legislative Council is submitting herewith its report and recommendations on the Board of Standards of Child Care and the licensing of child care facilities.

The Legislative Council assigned this study to the Children's Laws Committee, and that committee submitted its report on November 30, 1962, at which time the report was accepted by the Legislative Council for transmission to the General Assembly.

Respectfully submitted,


James E. Donnelly
Chairman

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Senator James E. Donnelly, Chairman
Colorado Legislative Council
341 State Capitol
Denver 2, Colorado

Dear Senator Donnelly:

Transmitted herewith is the report on the Board of Standards of Child Care and the licensing of child care facilities. This study (authorized by House Joint Resolution No. 14 (1962)) was assigned to the Children's Laws Committee by the Legislative Council in March, 1962. The Committee's report includes:

- 1) review of the operations of the Board of Standards and other agencies concerned with child care facilities;
- 2) licensing of child care facilities in other states;
- 3) problems and alternatives with respect to Colorado's program; and
- 4) recommendations for the licensing of child care facilities in Colorado.

Respectfully submitted,

/s/ Elizabeth E. Pellet, Chairman
Children's Laws Committee

FOREWORD

This study was authorized by House Joint Resolution No. 14 (1962), which directed the Legislative Council to review the present administration of the Board of Standards of Child Care with a view toward determining its proper place in the organizational administration of state government, so that the duties, functions, and policy-making decisions of the board can most effectively and efficiently be carried out. The resolution also directed the Legislative Council to report its findings and recommendations to the Forty-fourth General Assembly upon its convening in 1963.

The Legislative Council assigned this study to the Children's Laws Committee composed of the following legislative members: Representative Elizabeth E. Pellet, Rico, chairman; Senator Rena Mary Taylor, Palisade, vice chairman; Senator Charles E. Bennett, Denver; Senator A. W. Hewett, Boulder; Senator Dale Tursi, Pueblo; Representative Joe Calabrese, Denver; Representative Wayne Knox, Denver; Representative Kathleen Littler, Greeley; Representative H. Ted Rubin, Denver; Representative Laurence Thomson, Leadville; and Representative Betty Kirk West, Pueblo. The staff work on this study was the major responsibility of Harry O. Lawson, Legislative Council senior research analyst.

The Legislative Council Children's Laws Committee held six meetings devoted entirely or in large part to the Board of Standards study. Two of these meetings were public hearings at which board members, officials of other agencies concerned with the licensing program, child care facility directors and operators, and other interested persons were invited to make comments and present recommendations. Several persons wishing to present statements were also heard at three of the other four meetings devoted to this study. In addition, the committee reviewed the operations of the Board of Standards of Child Care since its creation in 1943, focusing special attention on the organization and operation of the licensing program since July 1, 1961, after which time the board no longer received an appropriation. The committee also studied the child care facility licensing programs in other states and considered several alternate approaches to licensing in Colorado before making its final recommendations.

The Committee wishes to express its appreciation to board members, other state officials, child care facility directors and operators, and other interested persons for the information and assistance provided during the study. The Committee also wishes to thank the members of the Children's Laws Advisory Committee for their help in conducting this study. Advisory committee members included: Dr. E. Ellis Graham, Director, Special Education Services, State Department of Education; Miss Marie Smith, Director, Child Welfare Division, State Department of Welfare; Goodrich Walton, Executive Assistant, State Department of Institutions; Mrs. L. Allen Beck, former state representative; Dr. Charles A. Rymer, Denver; Mrs. Paul V. Thompson, Boulder; Mrs. Alva Adams, Jr., Pueblo; and Mrs. Howard Rea, Denver.

December 5, 1962

Lyle C. Kyle
Director

TABLE OF CONTENTS

	<u>Page</u>
LETTERS OF TRANSMITTAL	iii
FOREWORD	vii
TABLE OF CONTENTS	ix
COMMITTEE FINDINGS AND RECOMMENDATIONS	xi
BOARD OF STANDARDS OF CHILD CARE	1
Creation of the Board	1
Brief History of the Board of Standards, 1943-1961	2
Board Activities, 1943-1949	3
Board Activities, 1949-1961	4
Proposed Legislation, 1959	8
Licensing of Child Care Facilities, 1961 to Present	9
Previous Participation by Other Agencies	10
Administering the Licensing Program	11
LEGISLATIVE COUNCIL STUDY	20
Public Hearings	21
April 25 Hearing	21
May 26 Hearing	27
LICENSING OF CHILD CARE FACILITIES IN OTHER STATES	36
Detailed Review of State Programs	36
Interagency Cooperation	39
Delineation of Standards	40
Advisory Committees	40
Issuance of Licenses	41
Enforcement Authority	42
PROBLEMS AND ALTERNATIVES	43
Present Program	43
Major Questions	44
Prime Program Responsibility: Some Alternatives	44
Board of Standards	45
Department of Health	46
Department of Education	46
Department of Welfare	47
Problems of Coordination -- A Suggested Approach	47
Other Problems	49
Delineation of Standards	49
License Issuance	49
License Fees	50

	<u>Page</u>
License Suspension, Revocation, and Appeal Procedure	50
Probationary Licenses	51
Enforcement Authority	51
APPENDIX A -- Colorado Statutes Relating to the Board of Standards of Child Care and the Licensing of Boarding Homes and Placement Agencies	53
APPENDIX B -- Working Agreement on Denver Investigations, Functions of State Agencies Participating in the Licensing Program, and Duties of Program Coordinator	56
APPENDIX C -- Statutes Relating to the Licensing of Child Care Facilities in Selected States	60
APPENDIX D -- By-laws of the Board of Standards of Child Care	79

LIST OF TABLES

TABLE I	Child Care Licenses Issued 1949-1961 by the Board of Standards of Child Care	5
TABLE II	Family Foster Homes Certified by Child Placement Agencies Licensed by the Board of Standards of Child Care, 1949-1961	6
TABLE III	Annual Expenditures by Category, Board of Standards of Child Care, 1949-1961	7
TABLE IV	Child Care Licenses Issued by the Board of Standards and the City and County of Denver, 1961-1962	19
TABLE V	Department of State Government Responsible for Licensing Day Care Facilities, by State	37

COMMITTEE FINDINGS AND RECOMMENDATIONS

Findings

Licensing of Child Care Facilities Prior to July 1, 1961

The Board of Standards of Child Care has had the responsibility for the licensing of child care facilities for the last 19 years. Prior to the passage of the legislation creating the board, the responsibility for licensing was divided among two state agencies and the boards of county commissioners.

Even though the licensing program was vested in a special board, the General Assembly recognized that the state welfare department and other state agencies should also be involved by providing that:

- 1) the board, "may make use of the facilities and services of any existing state board or department, such as the department of public welfare, the state board of health, and other such agencies...";¹
- 2) if the board so requests, "the division of child welfare of the department of public welfare is hereby authorized and directed to furnish such office space and clerical assistance as may be necessary to permit said board to perform the functions and duties required by this article."²

The board itself was to consist of nine members with "a known interest and experience in the administration of children's services."³ Appointments were to be made by the governor for two-year terms and were to include one representative each from the departments of health, welfare, and education; one representative from the board of the State Children's Home; two representatives from rural areas; and one representative each from Catholic, Protestant, and Jewish organizations sponsoring child care programs.⁴ There has been no change in the statutory requirements for board composition and the qualifications of board members. The original legislation, however, provided that no board member could serve more than two consecutive terms; this restriction was eliminated in 1947.

While the Board of Standards has no express statutory authorization to employ a staff or to expend funds for office facilities, the board received an annual appropriation through fiscal 1961 for these functions. This appropriation increased gradually from \$4,846 in fiscal 1946 to \$30,020 in fiscal 1961, when the board employed four full-time and two part-time employees. The number of licenses issued increased in approximately the same proportion as the board's appropriation, from 347 in fiscal 1946 to 2,117 in fiscal 1961.

1. 22-12-3 (3) C.R.S. 1953.
2. 22-12-7 C.R.S. 1953.
3. 22-12-3 (3) C.R.S. 1953.
4. Ibid.

Licensing of Child Care Facilities after July 1, 1961

The Board of Standards requested an appropriation of \$51,699 for the 1961-1962 fiscal year; however, no appropriation was approved by the Joint Budget Committee, and efforts to restore the board's appropriation failed on the floor of the General Assembly. Even though the appropriation was eliminated, the board's statutory authority was not repealed, and no legislation was introduced vesting this authority in another agency.

In substantiation for its refusal to approve an appropriation to the Board of Standards the Joint Budget Committee stated the following in its report on appropriations:⁵

The budget committee in reviewing the enabling act which created this board, found that there was no provision for the board to employ any staff or to expend funds for office facilities. Rather, the committee's review of the enabling act suggests that the board is to rely on the Child Welfare Services Division of the Department of Welfare for any clerical assistance or office facilities required for its activities and is to rely on the welfare department, public health department and other agencies existing at the time of the enabling act for such other technical assistance as it may require in its area of authority. The budget committee therefore did not provide any appropriation for this board for 1961-1962. It is the committee's belief that the welfare department is amply staffed and funded to accommodate any professional, clerical, or staff needs of the board and that the board should rely on that department for such services.

Administering the Licensing Program. Changing the established administration of a program is often more complicated and difficult than originally anticipated, especially if several agencies are involved. The record shows that it took approximately 10 months from the first interagency meeting in May, 1961 to work out most of the mechanics of administering the licensing program, including a delineation of the functions and responsibilities of the participating agencies. This record is covered in considerable detail in the research report, because much of the controversy and disagreement over the licensing of child care facilities in the past year has centered on the present arrangement involving several agencies and the responsibilities of each.

The operation of the licensing program was finally resolved as follows: The Board of Standards exercises its statutory responsibility for the program, issues licenses, and promulgates rules, regulations, standards, and the forms to be used. In all counties except Denver, inspections (except for sanitation) are performed by county welfare department personnel as agents of the Board of Standards. Sanitation inspections are performed by either the state or local health departments. Local fire departments and/or the Colorado Industrial Commission

5. Report on Appropriations 1961-1962, Joint Budget Committee, Colorado General Assembly, Budget Report 61-1, June, 1961.

are called upon for fire safety inspections. In the City and County of Denver, all inspections are made by the Maternal and Child Health Services Division, Denver Department of Health and Hospitals. The inspection program is administered on the state level by a coordinator employed by the state welfare department, who devotes 60 per cent of her time to licensing activities.

Some of the major points of contention during this period have been:

1) Control of Program. The Board of Standards has been concerned about its control over the program, because the coordinator is employed by the Department of Welfare, and investigations are made by county welfare workers unknown to the board. The board wanted the coordinator to be directly responsible to it and to provide direct, in the field, supervision over the investigators. Such a procedure would interfere with the long-time established organized lines of operation between the state and county welfare departments. The department of welfare has stated that it has not tried to take over the program and that it recognizes the board's authority. The department, however, must follow the administrative procedures established by statute and regulation.

2) Communications. The Board of Standards has insisted that all communications between it and the welfare department be in writing and that it would not approve any activities of the welfare department concerning the licensing program unless it had prior notification in writing of the welfare department's intent and an outline of what it proposed to do. The board has cited communication problems concerning the employment of consultants, the duties and responsibilities of the coordinator, and the investigation of child care facilities in Denver. The welfare department contends that it has been difficult to work with the board because the board has not always made its wishes clear to the department, so that the department has acted on occasion under the assumption that its action has the board's approval, only to find out that the board has changed its position.

3) Denver Investigations. The welfare department recommended that the inspection of child care facilities in Denver be made by the Division of Maternal and Child Care Services, Denver Department of Health and Hospitals, because that agency has the responsibility under a Denver ordinance to perform such inspections for the city. The board requested an opinion of the attorney general with respect to this recommendation. The attorney general said that such an arrangement could be worked out legally, if the state welfare department requested the Denver Department of Welfare to perform the investigations and the Denver department, in turn, made an arrangement with the Denver health department to assume this function. The board then required that there be two written agreements, one between the state and Denver welfare departments and the other between the Denver welfare and health departments specifying the functions and responsibilities of each agency. It was April, 1962 before these written agreements were in a form acceptable to the board.

4) Coordination. There has been some difficulty in having both the health and welfare inspections performed at the same time in counties other than Denver, because the health department does not have sufficient funds to hire additional sanitary inspectors for this purpose. (There are no organized local health departments in 42 counties and in some of the organized departments, the sanitarians already have a full work load.)

5) Delay in License Issuance. The Board of Standards did not approve any of the licensing lists submitted by the welfare department during the months of September through December 1961, even though the inspections had been performed. Some critics of the board have accused it of purposely delaying the issuance of these licenses. The board contended that it was hesitant to issue these licenses because it did not know who performed the inspections and further, it had insufficient knowledge of the procedures used.

Problems and Alternatives

Even though there are widely divergent points of view on the future organization and administration of the child care facility licensing program, there appears to be general agreement that the present arrangement is not satisfactory and is, at best, a necessary expedient until a new program is worked out and approved.

Major Questions. In examining alternatives to the present licensing program, the following questions have been considered by the committee:

- 1) Which agency or agencies should have the prime responsibility for the licensing program? (Closely related is whether this function should be the responsibility of a lay board or a professional line agency?)
- 2) To what extent should other state agencies be involved in the licensing program and how can interagency cooperation best be achieved?
- 3) To what extent should local agencies be involved in the licensing program and how can cooperation with these agencies best be achieved?

Several other matters have also been considered, because statutory changes and additions appear necessary, regardless of which agency or board is given the prime responsibility for the program. These include: 1) definition of facilities to be licensed; 2) adequate statutory standards; 3) license issuance, including prerequisites, fees (if any), provisional or probationary licenses, denial, revocation and suspension procedures, and the appeal procedure related thereto; and 4) enforcement authority.

Organizing the Program

There are several ways in which the licensing program for child care facilities might be organized administratively:

1) The responsibility could be left with the Board of Standards, with the board given an adequate appropriation and staff. If the board is to be responsible for investigations, several field investigators would be needed and consideration should be given to establishing regional offices. If the board's function is to be one of coordination, then the board would at least need a full-time coordinator and secretarial and clerical services.

2) The state welfare department could be given the prime responsibility for licensing all child care facilities. If this approach were followed, machinery for interagency cooperation should be established which would provide for the participation of the health department (health and sanitation), education department (standards and qualifications for facilities whose main purpose is educational), and the Industrial Commission (safety inspections).

3) The state welfare department could be given the prime responsibility for licensing all child care facilities, except those whose main purpose is educational. These latter facilities could be the prime responsibility of the education department.

4) The department of health could be given the prime responsibility for the licensing of all child care facilities, or this function could be divided between the state department of health and education, as indicated in 3) above. Machinery for interagency cooperation would still be needed.

5) The department of education could be given the prime responsibility for the licensing of all child care facilities, with provision for interagency cooperation.

Board of Standards. Prior to the termination of the board's appropriation, which led to a much fuller utilization of the services of the welfare and health departments, the Board of Standards had to determine: program content, ability to care for children, fire safety, adequacy of the physical facility, and compliance with health and sanitation standards. While other agencies assisted from time to time, the prime responsibility rested with the board. It is virtually impossible for any one agency to pass judgment on so many different matters, and the situation presumably would be complicated further by requiring the board to determine the adequacy of educational programs.

Several state agencies are already required by statute to perform certain functions which are also involved in the licensing program. These include the departments of health, welfare, and the Industrial Commission. While the state education department has no statutory authority at present to regulate private schools or evaluate their programs and teachers, these would appear to be logical functions for this agency. Consequently, if the Board of Standards were to perform all functions related to the licensing program, it appears that there would be overlapping of responsibility and duplication of functions (which was also the situation in the past, prior to the time the board was denied an appropriation).

Even if all of the agencies now involved continue to participate in the licensing program, proponents of retaining the Board of Standards argue that a participating agency cannot coordinate the program properly and that this function should be the board's responsibility. Under such circumstances, the board, through a full-time coordinator employed by it, would establish procedures and patterns of operation for the participating agencies and would continue to have the final responsibility on the issuance, denial, and withdrawal of licenses.

It has been demonstrated during the past 18 months that the coordination of several participating agencies has been a long, involved process. It remains questionable, however, whether this process would be helped or hindered by the continued imposition of another authority over the participating agencies, all of whom have certain statutory responsibilities and established patterns of operation.

The trend has been away from part-time boards exercising administrative, policy making, and decision making authority and toward the use of such boards and commissions in an advisory capacity. In this situation the question is whether a part-time lay board, even with a known interest and experience in children's programs, agencies, and facilities, has the technical knowledge to review and sit in judgment on the work of professional staff people. This question is apropos whether the board is given the responsibility for all facets of the program and reviews the work of its own staff (all members of which presumably would have professional background and experience) or whether the board's responsibilities are to be those of program coordination and license issuance.

If the decision is made to continue the board in either of these capacities, consideration should be given to: 1) the establishment of more pertinent qualifications for board members; 2) a limitation on the number of consecutive terms a board member may serve; 3) a per diem allowance for board members, in addition to actual expenses; and 4) a detailed delineation of the board's functions and responsibilities and its relationship to other agencies.

Department of Health. The placement of the licensing program in the State Department of Health (as has been done in six states) would necessitate providing for sufficient staff. The department has difficulty at present carrying out both its statutory obligations and its present obligations to the Board of Standards in performing sanitation inspections because of a shortage of personnel on the state level and the existence of organized local health departments in only 21 counties. Many of these local departments are also understaffed and are therefore unable to perform sanitation inspections as quickly as might be desired. If the health department were to have the sole responsibility for the program, it would also require the addition of child group care specialists and educational consultants to the staff; the department does not now have personnel qualified in these fields. The addition of staff members to perform the necessary inspections and to evaluate child care and educational content would be a duplication of services which are generally considered the responsibility of the departments of welfare and education, respectively. Nevertheless, if the Denver experience is any criterion, the health department could undertake the program. It might be more satisfactory and involve less

duplication to involve the welfare department in child care and the education department in educational programs. Another and perhaps better alternative would be to place the entire responsibility for facilities whose major purpose is educational with the state education department.

Department of Education. The placement of the entire licensing program in the state education department would also require the addition of specialists in sanitation and child care on a consultant or staff basis, unless these functions were delegated to the departments of health and welfare, respectively. The education department, according to the commissioner, would also need funds for additional staff members to carry out responsibilities with respect to educational program content and teachers' qualifications. The comments on duplication of services made above with reference to placing the sole control in the department of health apply to the department of education as well.

Department of Welfare. If the welfare department were given the sole licensing program responsibility under circumstances similar to those described above for the health and education departments, it would also need staff members or consultants with health and educational training and experience. Investigations are now carried out by county welfare department personnel (with the exception of the City and County of Denver), except in those small counties without qualified workers. In these counties, inspections are performed by the Child Welfare Division supervisory field staff. This staff also gives supervision to the county child welfare workers performing this function in the other counties. Since it is not likely or feasible that additional staff or consultants could or would be hired on the county level (for example, what would their functions be in addition to licensing?), these employees would have to be added on the state level, and the result would be a combination state and local inspection team, adding a further problem of coordination. Again, this would be a duplication of services generally considered the responsibility of other agencies. The responsibility could be divided between the welfare and education departments, but even though the major purpose of a facility may be educational, child care is still an important component of the program where pre schoolers are concerned.

Recommendations

Licensing Program

The previous discussion indicates that it would be difficult for any one state agency to assume the sole responsibility for the licensing program because of the variety of disciplines involved. The successful division of functions among the various agencies would depend on interagency cooperation and the way such cooperation is handled by statute and by the agency given the prime responsibility for the program.

There is, however, a possible approach to the problem which might lessen the complexity of administering the licensing program and which might be mutually acceptable to all of the participating agencies.

This approach is based on the assumption that the welfare department is best qualified to determine whether a facility is adequate to provide proper child care. The welfare department is not qualified to determine fire safety, health and sanitation requirements, or educational program content, although all of these are involved in the provision of adequate child care. The health department has statutory authority independent of the licensing function to establish and enforce sanitary standards for child care facilities. Fire and safety inspections are performed by the Industrial Commission and local fire officials.

The Children's Laws Committee recommends, therefore, that the prime responsibility for licensing be placed with the welfare department, but that as a prerequisite to obtaining a license, a facility must meet the requirements of these other agencies with respect to safety, health, and sanitation. Recognizing that it is not always possible for these other agencies to have completed their inspections prior to the time of license application or renewal, it is recommended that a provisional license be issued for a six-month period (renewable for an additional six-month period, if necessary) or until such inspections are made, whichever period is shorter.

As indicated above, the welfare department is competent to determine whether a facility can take care of children adequately, but is not qualified to make judgments on educational programs. This is no reason, however, why the welfare department could not license nursery schools, pre schools, and kindergartens, but only as proper child care facilities.

The Children's Laws Committee recommends that legislation be considered to give the education department the authority and responsibility to examine the educational programs of pre schools and kindergartens. These facilities, if approved, could then be issued a license or a certificate by the education department showing that the facility is recognized as an educational institution. The facility's child care license would not be affected by the approval or disapproval of the educational program by the department of education; however, a facility not receiving an educational license, but having a child care license, should be prohibited from representing itself as an educational facility.

Delineation of Standards

Colorado's present licensing legislation provides only the following with respect to standards: "This board shall adopt and make available minimum standards required of persons or agencies seeking licenses under this article to operate foster boarding homes or child placement agencies, and shall make rules and regulations in harmony with approved standards for the conduct of such foster boarding homes and child placement agencies as shall be granted a license as provided in section 22-12-2."

In light of recent court decisions and legislative concern over the rule making and regulative authority given administrative agencies without proper legislative standards for such rules and regulations, it appears that the present Colorado provision cited above is at least inadequate if not unconstitutional.

The problem is caused by the need to spell out standards sufficiently by statute to satisfy the courts and to assure that the licensing agency has a clear, well-defined mandate from the General Assembly, while, at the same time, avoiding making the standards so detailed as to eliminate flexibility and to restrict unduly the licensing agency's decision making power and operations.

The Children's Laws Committee recommends that the standards upon which rules and regulations are to be based shall be clearly specified by statute and that rules and regulations pursuant to these standards be adopted in conformance with the provisions of the Administrative Procedures Act. These standards should include the following:

- 1) the operation and conduct of the facility and the responsibility it assumes for child care;
- 2) the character, suitability, and qualifications of the applicant for a license, either original or renewal, and of other persons directly responsible for the care and welfare of children served;
- 3) the general financial ability and competence of the applicant for a license, either original or renewal, to provide necessary care for children and to maintain prescribed standards;
- 4) the number of individuals or staff required to insure adequate supervision and care of children served;
- 5) the appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire protection and prevention and health standards in conformance with state laws and municipal ordinances, to provide for the physical comfort, care, well-being, and safety of children served;
- 6) provisions for food, clothing, equipment, and individual supplies;
- 7) provisions to safeguard the legal rights of children served;
- 8) maintenance of records pertaining to the admission, progress, health, and discharge of children;
- 9) filing of reports with the department; and
- 10) discipline of children.

The Children's Laws Committee recommends further that any person licensed to operate a child care facility should have the right to appeal any standard or standards which, in his opinion, work an undue hardship or when, in his opinion, a standard or standards have been too stringently applied.

License Issuance

The present Colorado statutes provide the following with respect to license issuance:

22-12-4, C.R.S. 1953. Investigation -- license renewal. --

It shall be the duty of the board on standards of child care to pass annually on the application of every agency which receives or accepts the children for placement or places children in private homes. Annually, at such times as the board shall direct, every such agency shall make a report to the board, showing its condition, management and competency to adequately care for such children as are or may be committed thereto or received thereby, the system of visitation employed for children placed in private homes, and such other facts as the board may require. When the board is satisfied that such agency is competent and has adequate facilities to care for such children, and that the requirements of the statutes covering the management of such agencies are being complied with, it shall issue to the same, without charge, a license to that effect, which shall continue in force for one year, unless sooner revoked by the board...

No mention is made of license fees, prerequisites for licensing, or provisional licenses.

The recommendation has already been made that certain prerequisites be established by statute for obtaining a license (prior approval on sanitation and safety by the appropriate agencies). To these should be added statutory requirements covering the character, financial stability, and experience of the applicant.

Provisional licenses might be issued under any of the following circumstances:

1) The applicant has not been inspected by the health department and either the local fire department or the Industrial Commission at the time the application was made.

2) The facility is needed in the local community and defects reported by the other agencies are minor, and the applicant or licensee has agreed to comply within a given period.

3) Through no fault of the applicant or licensee, the facility must be located temporarily in physical surroundings which do not meet standards.

License Fees. Very few states charge license fees, and some limit such fees to certain types of child care facilities. Fees should not be looked upon as a revenue raising measure; in fact, it is doubtful that they would even cover inspection costs unless set at a very high level. Caution must be exercised in determining the fee level, so as not to cause undue hardship to operators or force them out of business.

The Children's Laws Committee recommends the statutory adoption of the following license fee schedule:

- 1) Foster care homes (excluding homes certified by child placement agencies).....\$5.00
- 2) Child care centers:
 - a. Public centers operated by a unit of state or local government or supervised directly by a public agency..... 1.00
 - b. Voluntary centers operated by a non-profit organization under auspices of a social agency, settlement group, church, etc..... 1.00
 - c. Proprietary or commercial centers operated for the financial profit of the owner, operator, or manager..... 5.00
- 3) Child placement agencies..... 5.00

License Suspension, Revocation and Appeal Procedure

The present Colorado statutes provide the following on suspension and revocation:

22-12-4 C.R.S. 1953It shall be the duty of the Board of Standards of Child Care to suspend or revoke any license issued, in the event that the minimum standards provided for the operation of foster boarding homes are not maintained. Any such suspension or revocation shall be made only after a hearing by the board, at which hearing the licensee may be present in person or by representatives to hear the charges and offer any defense thereto. Any licensee shall have the right to petition to the proper court for a review of any order of suspension or revocation.

There are several problems with the above provision. First, revocation or suspension can be made for failure to comply with minimum standards, which standards have been established by the board without what appears to be a proper legislative delegation of authority. Second, although a hearing must be held, no time limits are specified, nor is the person whose license is being suspended or revoked or his representative required to be present at such hearing. The statute merely provides that he or his representative may be present. Third, there are no time limits set for such hearing, no specific requirement for notification, and no standards for the conduct of such hearing or bases for rendering a judgment. Fourth, there is no provision for a hearing if an initial application for a license is denied.

The Children's Laws Committee recommends that the appeal procedure be the same as that contained in the Administrative Procedures Act. If this act is followed there is no reason why the appeal cannot be heard by the issuing agency. For example, the statutes might require that such hearings be held by the director of public welfare or his designated representative, the director of child welfare, and the official responsible for the licensing program.

Both the health department and the Industrial Commission could follow their respective hearing procedures if an operator of a child care facility wishes to appeal a decision by either agency with respect to sanitary or fire safety conditions. If such appeal does not result in a reversal, then the welfare department could use the action taken by either or both of these agencies as grounds for suspension, revocation, or perhaps the issuance of a probationary license.

Hearings and appeals from education department actions should be entirely separate from the above procedures.

Probationary Licenses. The Children's Laws Committee recommends that the welfare department be given the authority to issue a probationary license after a license has been suspended or revoked. Such license would be in force only for a limited period of time and only if the licensee complies with the conditions specified by the licensing agency.

Enforcement Authority

The present enforcement provisions are as follows:

22-12-6, C.R.S. 1953. Jurisdiction -- penalty. -- The juvenile court in counties or municipalities where juvenile courts are established by statute and the county courts or district courts in counties in which no juvenile court are established by law, shall have exclusive jurisdiction for the hearing and disposition of cases involving violations of this article. Every person, agency, firm, corporation or association violating any one or more of the provisions of this article or intentionally making any false statement or report to the board on standards of child care or to any agency delegated by said board to make an inspection under the provisions of this article shall be deemed to be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars or more than three hundred dollars.

The Board of Standards has no injunctive authority and has found it difficult to use the above statute.

The Children's Laws Committee recommends the following statutory provisions concerning the enforcement authority of the Department of Welfare with respect to the licensing program:

1) The department may, in the name of the people of the State of Colorado, through the attorney general of the state, apply for an injunction in any court of competent jurisdiction to enjoin any person from operating any facility without a license which is required to be licensed under this article. If it is established that the defendant has been or is so operating such facility, the court shall enter a decree enjoining said defendant from further operating such facility unless and until he shall obtain a license therefor. In case of violation of any injunction issued under the provisions of this section, the court, or any judge thereof, may summarily try and punish the offender for contempt of court. Such injunctive proceedings shall be in addition to, and not in lieu of any other penalty provided.

2) Any person violating any provision of the licensing law or intentionally making any false statement or report to the department or to any agency delegated by the department to make an investigation or inspection under the provisions of this article shall be deemed to be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than three hundred dollars.

Advisory Committee

The Children's Laws Committee recommends that an advisory committee be established to consult with the Department of Welfare in the administration and enforcement of the child care facility licensing program. It is recommended that this committee consist of 11 members to be appointed by the State Board of Welfare for staggered three-year terms and that no member may be appointed to succeed himself.

The composition of the committee should be as follows: five members who are licensed operators of child care facilities; one member each from the departments of education, health, welfare, and institutions; and two members at large who are not licensees or department representatives, but who are persons of known interest in child welfare.

Institutes and Programs

The Children's Laws Committee recommends that the department of welfare be given specific statutory authority to hold institutes and programs for licensees. Such institutes should be designed to assist licensees in improving their facilities, standards, and programs.

BOARD OF STANDARDS OF CHILD CARE

Creation of the Board

The Board of Standards of Child Care was created by the Thirty-fourth Colorado General Assembly in 1943 to regulate and license child care facilities.¹ Prior to the passage of this legislation there were three agencies with child care licensing responsibilities:

- 1) The Bureau of Child and Animal Protection had responsibility for licensing maternity homes.
- 2) The Bureau of Charities and Corrections had the responsibility to require reports from and to issue licenses to private eleemosynary associations, societies, and corporations.
- 3) The county commissioners in each county had the responsibility for licensing children's institutions located in the county.

The growth in the number of nurseries, play schools, day care centers, quasi foster homes, and other facilities for the care of children led to the introduction of legislation in the Thirty-second General Assembly in 1939 to require child care facilities to be licensed, and placing the regulatory responsibility in the State Department of Welfare. This legislation failed to pass, not because of lack of support for the state-wide licensing of child care facilities, but because of opposition to placing the program in the State Department of Welfare.²

The 1943 legislation as introduced also placed the child care facility licensing program in the welfare department. Opposition to this proposal resulted in the creation of the Board of Standards of Child Care, a compromise which was acceptable to those who did not want this authority vested in the welfare department. At least one group which had supported the original measure accepted the compromise because of the urgent need for control of child care facilities, which were increasing in number and utilization because of wartime conditions.³

Even though the licensing program was vested in a special board, the General Assembly recognized that the state welfare department and other state agencies should also be involved by providing that:

- 1) the board, "may make use of the facilities and services of any existing state board or department, such as the department of public welfare, the state board of health, and other such agencies...";⁴ and

1. Chapter 22, Article 12, Colorado Revised Statutes 1953; see Appendix A for complete text.
2. According to the testimony of Mrs. Frederick B. Orman, Legislative Council Children's Laws Committee, Minutes of May 26, 1962, p. 11.
3. Statement by League of Women Voters of Colorado, Legislative Council Children's Laws Committee, Minutes of May 26, 1962, p. 16.
4. 22-12-3 (3) C.R.S. 1953.

2) if the board so requests, "the division of child welfare of the department of public welfare is hereby authorized and directed to furnish such office space and clerical assistance as may be necessary to permit said board to perform the functions and duties required by this article."⁵

The board itself was to consist of nine members with "a known interest and experience in the administration of children's services."⁶ Appointments were to be made by the governor for two-year terms and were to include one representative each from the departments of health, welfare, and education; one representative from the board of the State Children's Home; two representatives from rural areas; and one representative each from Catholic, Protestant, and Jewish organizations sponsoring child care programs.⁷ There has been no change in the statutory requirements for board composition and the qualifications of board members. The original legislation, however, provided that no board member could serve more than two consecutive terms; this restriction was eliminated in 1947.

Generally, those who felt that the licensing and regulation of child care facilities should be welfare department functions looked upon the creation of the Board of Standards as a short term expedient to meet the wartime emergency situation, and they advocated that at a later date the program should be given to the state welfare department and the board abolished or given an advisory role.

Those who opposed giving this responsibility to the welfare department considered the creation of the Board of Standards as the best possible approach to the regulation and control of child care facilities, not only during the emergency which existed in 1943 and the following war years, but also on a permanent basis.

This difference in attitudes toward the Board of Standards and the welfare department is a reflection to a considerable extent of the basic differences in philosophy concerning the desirability of having social services, such as the licensing of child care facilities, administered and performed by trained professional personnel and the adequacy of program administration and supervision by a part-time unpaid lay board. This philosophical difference still exists and has underlain much of the controversy over the Board of Standards since its creation.⁸

Brief History of the Board of Standards, 1943-1961⁹

The first Board of Standards of Child Care was appointed in July, 1943. Members of the board at that time were:

Mrs. C. Walter Allen, Denver, chairman
Reverend John R. Mulroy, Denver, vice chairman
Mrs. Grace T. Shaw Denver, secretary

5. 22-12-7 C.R.S. 1953.

6. 22-12-3 (3) C.R.S. 1953.

7. Ibid.

8. This controversy is covered in detail later in this report.

9. The major portion of the information contained in this section is taken from the biennial reports of the Board of Standards issued in 1945, 1947, 1949, 1951, 1953, 1957, and 1959.

Walter R. McKinstry, Julesburg
Mrs. George H. Garrey, Denver
Charles Rosenbaum, Denver
Mrs. Jeanette Baughman, Cheyenne Wells
Ralph L. Carr, Antonito and Denver
Dr. Charles Glenn Grover, Lakewood

Board Activities 1943-1949

According to the board's first biennial report (1943-1945), effort was concentrated on the following during its first year of operation:

- 1) research -- gathering information on licensing and standards from other states and related Colorado agencies such as welfare, health, and education;
- 2) definition and formulation of standards for foster homes, nursery schools, day nurseries, child care centers, institutions, and child placement agencies;
- 3) promulgation of rules and regulations for hearings and the issuance of licenses;
- 4) development of forms; and
- 5) publication of standards.

During its second year, the board issued licenses to: 285 family foster homes, caring for 1,074 children; 20 nurseries, caring for 955 children; 24 institutions, caring for 1,982 children; and five placement agencies, placing 2,122 foster children.

The board made or had made for it a number of additional inspections of facilities which either closed voluntarily or were denied licenses. Twenty hearings were conducted by the board; 26 children's camps were inspected; and steps were taken to formulate standards for such camps.

1945-1947. During the next biennium, two new members were appointed to the board: John W. Davis, Delta, and Mrs. Nettie S. Freed, Pueblo. They replaced Mrs. Shaw and Mr. McKinstry. Mrs. Allen and Reverend Mulroy continued to serve as chairman and vice chairman respectively. During 1945-46, the board had an appropriation of \$4,846 and expended \$4,522.¹⁰ In 1946-47, the board was appropriated \$5,664 and expended \$5,421. Salaries for the two years were \$3,552 and \$4,427 respectively. (The 1945-47 report does not indicate how the agency was staffed during this period.) In 1945-46, the board issued 347 licenses for facilities caring for or placing 6,975 children. In 1946-47, 459 licenses were issued, covering 8,436 children.

10. It should be noted that there is no statutory authorization for staff nor for per diem allowances, nor for reimbursement of board members for expenses.

1947-1949. There were no changes in board membership from 1947 through 1949. Appropriations and expenditures were more than doubled over the previous biennium.

1947-1948: Appropriated \$10,611 -- Expended \$10,035.

1948-1949: Appropriated \$10,232 -- Expended \$9,460.

Salaries over the two-year period accounted for 78 per cent of the total expenditures (\$15,192).

There were 577 licenses issued in 1947-1948, covering 7,245 children. In 1948-1949, 687 licenses were issued covering 7,897 children.

Board Activities 1949-1961

The activities and expenditures of the Board of Standards from July 1, 1949 through June 30, 1961 is shown in Tables I through III. Table I shows the number of licenses issued by type of child care facility. Table II shows the number of family foster homes certified by the private placement agencies licensed by the board. Table III shows the board's annual expenditures by category.

Appropriations. The board's annual appropriation almost tripled between the fiscal years 1950 and 1961. Salaries and travel expenses were primarily responsible for the increase in appropriations and expenditures. During the 1949-1951 biennium the Board of Standards had a full-time staff of two field workers and two office employees. Another field worker was added during the summer to inspect children's camps. The staff remained the same size during the following two years. In the 1955-1957 biennium the size of the staff was increased to six full-time employees and two part-time employees, including a director, administrative secretary, two clerk-typists, two full-time field investigators, and two camp investigators employed only during the summer months.

There were five full-time employees in 1958 and four in 1954. In 1960, the board had four full-time employees and three who were temporary or part-time. There were two part-time employees in 1961.

Licenses. More than two and one-half times as many licenses were issued by the board in fiscal 1961 as were issued in fiscal 1951. The number of children covered by these licenses almost doubled during the same period. One of the biggest increases was in family foster homes; 1,204 were licensed in 1961, as compared with 528 in 1951. The number of children cared for in licensed family foster homes almost tripled during the ten-year period, from 1,274 to 3,565. Licenses for nurseries and centers also showed an increase of considerable magnitude, from 43 facilities and 1,179 children in 1951, to 124 facilities and 3,564 children in 1961. There were large increases as well in the number of licenses issued and children covered in camps and welfare homes. There were fewer child placement agencies licensed in 1961 than in 1951 -- a decrease from nine to six. There was also a slight decrease in the number of institutional foster homes licensed and in the number of children receiving care in these facilities.

Table I

CHILD CARE LICENSES ISSUED 1949-1961
BY THE BOARD OF STANDARDS OF CHILD CARE

Year	Family Foster Homes		Nurseries and Centers		Institutional Foster Homes		Child Placement Agency	Children's Camps		Welfare Homes		Colo. State Children's Home			Total Number Licenses Issued	Total Number of Children
	No.	No. Ch.	No.	No. Ch.	No.	No. Ch.	No.	No.	No. Ch.	No.	No. Ch.	No.	No.	Ch.		
49-50	409	949	39	1,024	19	1,420	8	84	8,205	224	468	19	20		802	12,086
50-51	628	1,274	43	1,179	22	1,556	9	87	8,683	267	553	18	21		974	13,266
51-52	485	1,435	55	1,470	20	1,575	9	91	9,112	303	655	25	25		988	14,272
52-53	623	1,574	65	1,634	21	1,704	10	96	9,680	314	665	12	12		1,141	15,269
53-54	738	1,829	95	2,098	18	1,503	9	99	9,377	335	728	20	22		1,314	15,557
54-55	724	1,853	94	2,079	19	1,653	9	111	9,853	411	968	20	22		1,388	16,428
55-56	872	2,218	103	2,253	22	1,920	9	121	12,202	454	1,101	17	17		1,598	19,711
56-57	1,031	2,701	113	2,875	23	1,661	10	119	12,624	504	1,261	14	14		1,819	21,136
57-58	1,132	2,767	112	2,789	20	1,625	10	112	11,092	534	1,370	13	14		1,933	19,657
58-59	821	2,238	73	1,840	18	1,266	10	118	12,925	541	1,391	10	10		1,537	19,670
59-60	1,168	2,932	79	2,145	16	1,171	7	103	11,084	674	1,613	4	4		2,051	18,949
60-61	1,204	3,565	124	3,564	20	1,227	6	114	13,453	647	1,585	2	2		2,117	23,396

Table II

FAMILY FOSTER HOMES CERTIFIED BY CHILD PLACEMENT AGENCIES LICENSED
BY THE BOARD OF STANDARDS OF CHILD CARE, 1949-1961

Year	Catholic Charities Denver		Colorado Children's Aid		Family & Children's Service		Jewish Family & Children's Service		Lutheran Family Service		Catholic Charities Pueblo		Family Service Pueblo		Colo. Spgs. Christian Home		Total No. of Homes	Total No. of Children
	No. Homes	No. Ch.	No. Homes	No. Ch.	No. Homes	No. Ch.	No. Homes	No. Ch.	No. Homes	No. Ch.	No. Homes	No. Ch.	No. Homes	No. Ch.	No. Homes	No. Ch.		
49-50	48	100	42	61	--	--	4	6	--	--	--	--	--	--	--	--	94	167
50-51	40	74	73	133	--	--	3	3	--	--	1	3	3	8	--	--	120	221
51-52	48	102	76	135	--	--	1	1	--	--	2	7	4	5	--	--	131	250
52-53	53	111	68	128	--	--	4	7	--	--	3	6	6	17	--	--	134	269
53-54	43	75	--	--	27	54	3	4	--	--	0	0	4	9	--	--	77	142
54-55	62	106	--	--	49	101	6	10	--	--	0	0	0	0	--	--	117	217
55-56	46	84	--	--	25	54	8	11	--	--	0	0	0	0	--	--	79	149
56-57	49	90	--	--	25	51	7	13	3	7	0	0	0	0	1	1	85	162
57-58	46	87	--	--	21	41	13	19	11	19	0	6	0	0	5	6	96	178
58-59	36	70	--	--	25	53	15	19	19	32	0	5	0	0	5	7	100	186
59-60	37	70	--	--	21	44	12	17	18	25	3	9	2	7	8	19	101	191
60-61	43	71	--	--	17	37	14	16	11	20	4	7	2	7	8	12	99	170

Table III

ANNUAL EXPENDITURES BY CATEGORY, BOARD OF STANDARDS OF CHILD CARE, 1949-1961

<u>Year</u>	<u>Salaries</u>	<u>Postage</u>	<u>Printing</u>	<u>Repairs</u>	<u>Telephone</u>	<u>In State Travel</u>	<u>Meals & Lodging</u>	<u>Office Supplies</u>	<u>Capital Outlay</u>	<u>Retirement</u>	<u>Amount Appropriated</u>	<u>Amount Disbursed</u>
49-50	\$ 8,552.91	\$200.00	\$300.26	\$17.05	\$ 4.65	\$ 827.61	\$273.80	\$ 110.08	---	\$180.00	\$11,642.00	\$10,466.36
50-51	9,140.00	200.87	439.53	12.00	6.25	1,090.50	372.53	63.78	---	390.04	11,905.50	11,715.50
51-52	11,334.49	258.73	217.26	15.09	31.24	1,345.21	458.95	307.17	\$150.00	532.36	16,886.13	14,650.50
52-53	10,750.12	349.95	88.08	10.19	12.55	1,218.19	355.48	171.75	128.57	433.63	16,740.63	13,518.51
53-54	13,817.43	250.00	171.15	4.00	7.35	1,808.26	467.54	241.16	154.12	670.54	17,640.00	17,591.55
54-55	15,326.07	325.00	203.78	50.15	27.07	1,768.51	504.44	406.36	197.54	718.63	19,570.00	19,527.55
55-56	16,267.38	375.00	155.28	22.50	9.95	2,277.37	602.24	406.56	420.60	696.45	22,111.00	21,233.33
56-57	17,162.56	275.00	325.43	4.20	59.05	2,368.61	690.00	327.60	196.60	697.45	24,150.00	22,106.50
57-58	20,622.63	375.00	83.00	6.00	63.60	2,920.70	596.32	392.77	99.51	943.09	25,673.89	26,102.62
58-59	19,983.69	419.00	127.32	21.15	113.23	2,791.48	757.03	494.78	---	891.80	26,035.00	25,599.48
59-60	20,319.46	---	---	---	---	4,881.95 ^a	---	1,384.57 ^b	667.28	897.48	28,256.00	28,150.74
60-61	23,388.74 ^c	---	---	---	---	4,826.64 ^a	---	1,532.17 ^b	272.10	---	30,020.63	30,019.65

a. Includes travel, meals, and lodging.

b. Includes all operating expenses.

c. Includes retirement.

The number of family foster homes certified by licensed child placement agencies remained about the same from 1951 to 1961, although fewer children were cared for in these homes.

Changes in Board Membership, 1949-1961. Six new board members were appointed during the 1949-1951 biennium: Mrs. Fred North, Rocky Ford, chairman; Mrs. George (Allegra) Saunders, Denver, secretary; Dr. George Dwire, Colorado Springs; Earl M. Kouns, Denver; Mrs. Louis Pollack, Denver; Mrs. Eugene Revell, Denver; Mrs. Allen, Mrs. Fried, and Reverend Mulroy were reappointed.

There was a considerable turnover in board membership during the 1951-1953 biennium. Only Mrs. Allen, Reverend Mulroy, and Dr. Dwire were reappointed. New board members were: Fritz Nagel, Denver; John A. Brown, La Junta; Dave Harlem, Denver; Mrs. Marguerite Juchem, Arvada; Mrs. Marie A. McMillen, Cheyenne Wells; and Reverend Canon Harry Watts, Denver. Two members were replaced during the 1953-1955 biennium (Dave Harlem and Fritz Nagel). New members were Mrs. Stephen H. Hart, Denver; and Solomon Girsh, Denver. Three new board members served from 1955 to 1957: Dr. Carla Swan, Denver; Mrs. Beatrice F. Wolverton, Berthoud; and Monsignor Elmer J. Kolka, Denver. They replaced Mrs. Allen, Mrs. Hart, and Reverend Mulroy.

New board members appointed in 1958 and 1959 were: Miss Grace Kenehan, Englewood; Reverend James Mote, Denver; Earl Grienetz; Mrs. Lucile Latting; and Dr. Harry Robbins, Englewood. They replaced: Dr. Carla Swan, Solomon Girsh, Reverend Watts, John A. Brown, and Mrs. Marguerite Juchem.

All of the board members appointed or reappointed during the 1957-1959 biennium are still serving, although officially the terms of all present board members have expired. The terms of those appointed in 1958 expired on July 27, 1960, and the terms of those appointed in 1959 expired on July 27, 1961. The number of years each of the present board members have served is indicated below:

Dr. George Dwire	13 years
Mrs. Selders (McMillen)	11 years
Monsignor Kolka	7 years
Mrs. Wolverton	7 years
Miss Kenehan	5 years
Dr. Robbins	4 years
Reverend Mote	4 years
Mrs. Latting	4 years
Mr. Grienetz	4 years

Miss Kenehan is the present chairman; Monsignor Kolka is vice chairman; and Mr. Grienetz is secretary.

Proposed Legislation 1959

Legislation to change the statutes relating to the Board of Standards was introduced in the first session of the Forty-second General Assembly in 1959. This measure (Senate Bill 248) was aimed at correcting what the board considered to be shortcomings in the existing law. Foremost of these were: 1) lack of adequate enforcement power;

2) lack of statutory authority for staff; and 3) lack of statutory authority to charge license fees of commercial operators.

Senate Bill 248 (1959) gave the board injunction power, with the attorney general required to bring such action at the board's request, if the local district attorney failed to act. Violations of the act and the rules and regulations promulgated thereunder were spelled out in detail, which gave the board more definite grounds in filing criminal charges. The provision that the child welfare division should furnish office space and clerical assistance was repealed, and two new sections provided for board staff and defined the director's duties. The board was given the authority to charge a license fee to commercial operators of from one dollar to \$50 as determined by the board.

Other major provisions of Senate Bill 248 (1959) included:

- 1) change in the definition of child care facilities;
- 2) mandatory hearings for license denial, suspension, and revocation; and
- 3) change in the requirements for board representation for three members from one representative each of Catholic, Protestant, and Jewish organizations with child care programs to one representative each of three different religious organizations sponsoring child care programs.

While several references were added to the rules and regulations promulgated by the board in accordance with the provisions of the act, no standards for the issuance of such rules and regulations were included.

Senate Bill 248 (1959) was referred to the Senate Health and Welfare Committee. The committee ordered the bill printed and indefinitely postponed action in the closing days of the session.

Licensing of Child Care Facilities 1961 to Present

The Board of Standards requested an appropriation of \$51,699 for the 1961-1962 fiscal year; however, no appropriation was approved by the Joint Budget Committee, and efforts to restore the board's appropriation failed on the floor of the General Assembly. Even though the appropriation was eliminated, the board's statutory authority was not repealed, and no legislation was introduced vesting this authority in another agency.

In substantiation for its refusal to approve an appropriation to the Board of Standards the Joint Budget Committee stated the following in its report on appropriations:¹¹

11. Report on Appropriations 1961-1962, Joint Budget Committee, Colorado General Assembly, Budget Report 61-1, June, 1961.

The budget committee in reviewing the enabling act which created this board, found that there was no provision for the board to employ any staff or to expend funds for office facilities. Rather, the committee's review of the enabling act suggests that the board is to rely on the Child Welfare Services Division of the Department of Welfare for any clerical assistance or office facilities required for its activities and is to rely on the Welfare Department, Public Health Department and other agencies existing at the time of the enabling act for such other technical assistance as it may require in its area of authority. The budget committee therefore did not provide any appropriation for this board for 1961-1962. It is the committee's belief that the Welfare Department is amply staffed and funded to accommodate any professional, clerical, or office needs of the board and that the board should rely on that department for such services.

Critics of the Board of Standards had different reactions to the elimination of the board's appropriation. Some felt that the termination of funds was the first step in the removal of the board's responsibility for the licensing of child care facilities and the transfer of this function to another agency or agencies. Others were of the opinion that while the board should be terminated and its functions transferred, the elimination of funds was not the proper way to go about it; instead, legislation should have been introduced transferring the licensing function and either eliminating the board or placing it in an advisory capacity.

Board members and other supporters of the then existing licensing program felt that the removal of funds in effect destroyed the program and provided no protection for children and parents, because no substitute arrangement had been offered. Further, the board had already been handicapped because appropriations were not sufficient to provide the necessary staff to cope with the increase in child care facilities, and amendatory legislation to increase the board's authority and enforcement powers had been rejected.

Previous Participation By Other Agencies

Agencies other than the State Department of Welfare had already been involved in the child care facility licensing program to some extent prior to June 30, 1961, the termination date of the board's last appropriation. The State Department of Health had the responsibility of establishing and enforcing sanitary standards under a section of the statutes not connected with the Board of Standards law.¹² Prior to July 1, 1961, the health department and the board held several meetings to work out health and sanitary standards, and the difficulty caused by the overlapping statutory authority of the two agencies was minimized,

12. 66-1-7 (13) C.R.S. 1953. "To establish and enforce sanitary standards for the operation and maintenance of orphanages, day care nurseries, foster homes, summer camps for children, schools...."

because the board adopted the health department standards. The health department had also performed some inspections in connection with similar inspections by board personnel.¹³

Local fire departments had been called upon from time to time by the board for fire safety inspections, and the Colorado Industrial Commission had been requested in some instances to take action with respect to fire and safety hazards, because of its enforcement authority.

In 1960, the attorney general ruled that the Board of Standards had the authority to license pre schools and kindergartens with the stated aim of being entirely educational, if such facilities were not operated under the auspices of a public, private, or parochial school, or college.¹⁴ Assistance in establishing standards for these facilities from the State Department of Education had been provided from prepared departmental materials such as the Kindergarten Guidebook and by Mrs. Lucile Latting, Consultant in Elementary Education for the department, and a board member.¹⁵

Representatives of all of these agencies participated in the four workshops for licensees held by the board in the fall of 1960 and in the first part of 1961.

The Maternal and Child Health Services Division of the Denver Department of Public Health was also involved in an inspection and licensing program as required by Denver ordinance. These inspections were made in addition to those made by the board, and facilities within the City and County of Denver received both a municipal and a state license. There had been some discussion between the maternal and child health division and the board concerning the possibility of the board using the division's inspection reports as a basis for issuing licenses. The board, however, preferred to make its own inspection.¹⁶

Administering the Licensing Program

Changing the established administration of a program is often more complicated and difficult than originally anticipated, especially if several agencies are involved. The record indicates that it took approximately ten months from the first interagency meeting in May, 1961 to work out most of the mechanics of administering the licensing program, including a delineation of the functions and responsibilities of the participating agencies. This record is shown in considerable detail below, because much of the controversy and disagreement over the licensing of child care facilities in the past year has centered on the present arrangement involving several agencies and the responsibilities of each.

13. As stated by Dr. Elwyn N. Akers, Chief, Maternal and Child Health Section, State Department of Health. Legislative Council Children's Laws Committee, Minutes of April 25, pp. 10 and 11.
14. Opinion of the Attorney General 60-3362, January 15, 1960.
15. Prepared statement by Mrs. Latting. Legislative Council Children's Laws Committee, Minutes of May 26, p. 27.
16. According to Dr. Ruth Raattama, Director, Maternal and Child Health Services Division, Denver Department of Public Health.

Meetings Prior to July 1, 1961. The Board of Standards met with representatives of the departments of health and welfare on May 10, 1961 to make arrangements for the operation of the child care facility licensing program after the termination of the board's appropriation on July 1, 1961. The following agreements were reached tentatively at this meeting:

1) The board's present secretary would be retained and her salary paid by the welfare department.

2) The health department would provide the person to coordinate the program.

3) The welfare department would continue to make its own foster home investigations.

4) Health and welfare department representatives would work out plans for general coordination of the programs and for investigations to be carried on under the direction of the board.

5) Decisions made at this meeting would be reported to the governor.¹⁷

Prior to the conference between the health and welfare department representatives, the governor met with the director of the two departments and one of the assistant commissioners of education. At that time he indicated that the prime responsibility for coordinating the programs should be the department of welfare's and not the department of health's, as had been decided at the May 10 interagency meeting.¹⁸

On June 12, 1961, several representatives of the departments of health and welfare met to discuss their respective departmental responsibilities in giving assistance to the Board of Standards. Representing the department of welfare were the director of the child welfare division and the supervisor of child welfare field services. Representing the health department were the director of maternal and child health, the chief of the social service section, the nursing¹⁹ director, the health officer for the tri-county health department, and a departmental sanitarian. As a consequence of this meeting the following plan of operation was adopted:²⁰

In a meeting with representatives of the Department of Health and Welfare, the following plan of cooperation was developed between the above named departments in working with the Board of Standards of Child Care:

17. Report of Board of Standards of Child Care Meeting with Representatives of Welfare and Health Departments of the State of Colorado, May 10, 1961.
18. According to Guy Justis, Director, Colorado Department of Public Welfare.
19. Adams, Arapahoe, and Jefferson counties.
20. Plan of Operation, June 16, 1961, Memorandum from Marie Smith, Director, Child Welfare Division, to Guy Justis, Director, State Department of Welfare.

1. The Department of Welfare, Child Welfare Division, will provide a coordinator and secretary and other staff as needed on a contractual basis to assist the Board of Standards in carrying out its responsibilities.

2. The Health Department will prepare reports on sanitation and the Welfare Department on program for the use of the Board of Standards on camps, day nurseries, nursery schools, day care centers, child-caring agencies and institutions, and foster homes in 62 counties. Denver is excluded, as a city ordinance gives this responsibility to the Division of Maternal and Child Health in the Denver Department of Health and Hospitals.

3. Both departments will work closely with other state or local agencies in securing necessary information, such as the fire marshals, the Industrial Commission, the Department of Education, etc.

4. Periodic meetings will be arranged with representatives of the departments involved.

5. Periodic reports will be prepared for submission to the governor, the Board of Standards of Child Care, as well as to the boards of each of the departments mentioned above.

This proposed operation plan was approved by the state welfare board on June 22 and was forwarded to the Board of Standards and the governor on June 26. On June 21, the health department designated the Director of the Maternal and Child Health Section as coordinator of the department's activities and services for establishments subject to licensing by the Board of Standards. He was also designated as the department's liaison representative with the welfare department.²¹

July 13 Meeting. At its meeting on July 13, the board acknowledged receipt of the proposed plan of operations, but asked to director of welfare for clarification on the following:

1) Would the welfare department pay the expenses of board members?

2) Is it correct to assume that the health department will continue to supply reports on sanitation and that the welfare department will furnish inspection reports on all types of operations?

21. Letter dated June 21, 1961, from Roy L. Cleere, M.D., Director of Public Health, to Guy Justis, Director, Colorado Department Public Welfare.

Further, the board stated that it would request an opinion of the attorney general with respect to the board's responsibility for licensing in the City and County of Denver.²²

The attorney general, in a written opinion to the chairman of the Board of Standards, stated that the fact that the Denver ordinance required the licensing of child care facilities did not relieve the Board of Standards of this responsibility on the state level.²³

The director of welfare replied on July 25, 1961 to the board's request for clarification of several points in the proposed plan of operation, after first checking with the budget director regarding payment of the expenses of board members and reviewing the opinion mentioned above of the attorney general. In his letter, the director of welfare indicated that the department would absorb board members' expenses as well as any other expenses incurred as a result of the department's services to the board. Further he stated that the assumptions made by the board with respect to the inspection functions of the department of health and welfare were correct and that health department reports would be included in the reports submitted by the welfare department. He also commented that it was not the intention of the welfare department to eliminate the licensing of Denver facilities by the board, but to use the investigative reports prepared by the Denver health department to eliminate duplication.²⁴

During this period, the department of welfare began recruitment for a program coordinator. In the meantime, the director of the child welfare division served in this capacity. The two field workers who had been hired by the Board of Standards to make summer camp investigations were retained on the welfare department payroll to finish their inspections, which were only one-third completed as of July 1, 1961. License applications were acknowledged and applicants informed that a representative of the Board of Standards would be visiting them before long. Directors of county welfare departments were written concerning the arrangement for licensing of child care facilities and explaining the responsibilities of the county departments. Enclosed was a list of new child care facilities applying for licenses, as well as a list of those applying for renewal, and compilations of the minimum standards, forms and instructions.²⁵

22. Minutes of the Board of Standards meeting held July 13, 1961, and letter dated July 19, 1961, from Miss Grace Kenehan, Chairman, Board of Standards, to Guy Justis, Director, State Department of Welfare.
23. Letter dated July 24, 1961, from Robert G. Pierce, Assistant Attorney General, to Miss Grace Kenehan, Chairman, Board of Standards of Child Care.
24. Letter dated July 28, 1961, to Miss Grace Kenehan, Chairman, Board of Standards of Child Care, from Guy Justis, Director, Colorado State Department of Public Welfare.
25. Progress Report to the Board of Standards of Child Care, an undated memorandum from the State Department of Welfare.

As the welfare department had no one on its staff with a nursery school background, the department considered employing consultants in four or five different sections of the state on a contractual basis to accompany the health and welfare department staff members in making inspections. Arrangements for one such consultant, who was also a nursery school operator, were made on a tentative basis, but the Board of Standards questioned having anyone on the inspection team who was also an operator. The board decided to ask the attorney general if the State Department of Education could be requested to provide this consultation.²⁶ It was the consensus of board members that no visits would be made to nursery schools, kindergartens, and pre schools until a plan of visitation was developed.²⁷

Attorney General's Opinion. On August 24, 1961, the attorney general replied to a request from the Board of Standards for an opinion on:

- 1) whether the board could request an agency of the City and County of Denver to make investigations of child care facilities so as to determine if such facilities should be licensed by the board; and
- 2) whether the board could request the services of the education department in the evaluation of nurseries, pre schools, and kindergartens.

The attorney general replied that the board could not request the assistance of a local agency directly, but that this assistance could be requested of the state welfare department, which in turn could ask the Denver welfare department for this service. In turn there was nothing to prevent the Denver welfare department from working out an arrangement with the Division of Maternal and Child Care of the Denver Department of Public Health. It was also his opinion that a request from the board for services by the State Department of Education was within the statutory authority given the board to make use of the services and facilities of any state board or department.²⁸

September Board Meeting. At the Board of Standards meeting on September 12, 1961, it was decided that it would not be necessary to have anyone with nursery school background accompany the team of inspectors in their visits to nursery schools, pre schools, and kindergartens. The director of child welfare, as acting coordinator, was requested by the board to have the studies of nursery schools and kindergartens made as soon as possible.²⁹ Accordingly, the counties were contacted and directed to go ahead with these inspections. At the same time a coordinator was hired by the welfare department. She was placed on the staff of the child welfare division and was to serve as a consultant in group care for the division, in addition to acting as coordinator for the Board of Standards.

26. Minutes of the Board of Standards meeting held August 8, 1962.

27. As reported by the Director of Child Welfare.

28. Letter dated August 24, 1961, to Miss Grace Kenehan, Chairman, Board of Standards of Child Care, from Duke W. Dunbar, Attorney General.

29. Progress Report to the Board of Standards of Child Care, op.cit.

The welfare department also established an advisory committee to assist it in carrying out its responsibilities to the Board of Standards. This committee was composed of the director of child welfare division, the chief of the maternal and child care section of the state health department, the chief of youth services for the department of institutions, and an assistant commissioner of the department of education.

The Board of Standards at its October meeting considered but did not adopt the license list of child care facilities on which inspection reports had been made. No licenses were approved at the November board meeting, but there was discussion of investigation procedures and an expression of the board's concern. It was stated by the board's vice chairman that the board should be furnished with evidence of the inspection procedures followed and that all material should be channeled to the board.³⁰ The board chairman also raised the question as to why the same licensing procedures could not be followed in Denver that had been used in the other counties.³¹ The director of child welfare explained that inspections were made by the child care and maternal health division of the Denver health department. It would be a duplication, therefore, to have inspections also made by the Denver welfare department. In a response to a question as to whether the state welfare department had a plan for carrying out instructions for inspections in Denver, the child welfare director said that the department could work through the Denver health department and that the coordinator could also make personal investigations.³²

Prior to the November board meeting there was correspondence between the director of the state welfare department and the director of the Denver Department of Welfare concerning whether it would be acceptable to the Denver health department to make investigations for the Board of Standards, using forms and standards developed by the board. On November 1, the director of the state welfare department was informed that the Denver health department was agreeable to this arrangement and that, in addition to their own forms would also fill out the board forms.³³ The maternal and child care section began filling out board forms on a trial basis for family foster home inspections.

December Board Meeting. The December 13, 1961 meeting of the Board of Standards was devoted to a general discussion of the licensing program and the relationships among the participating agencies. Present at this meeting, in addition to five members of the board, were various health and welfare department officials including the directors of both departments, an assistant commissioner of education, the chairman of the Industrial Commission, an assistant attorney general, the former chairman of the Joint Budget Committee, and the governor's executive assistant.

30. Minutes of the Board of Standards meeting held November 8, 1961.
31. The minutes of the September and October board meetings do not show any discussion or action with regard to inspection of facilities in Denver.
32. Minutes of board meeting, November 8, 1961, op.cit.
33. Letter dated November 1, 1961, to Guy Justis, Director, State Department of Public Welfare, from Miss Charline J. Birkins, Director, Denver Department of Welfare.

The governor's executive assistant opened the meeting by expressing the board's concern about the licensing program and how the board could carry out its statutory responsibilities.³⁴ After his opening remarks, the chairman of the board said that it was the board's understanding that it was the intent of the legislature that the board request personnel from other agencies to carry out its functions. She added that the board was dissatisfied with the existing situation and enumerated several questions and problems:³⁵

- 1) What was the intent of the legislature?
- 2) Does an employee-employer relationship exist between the coordinator and the board or between the coordinator and the welfare department which pays her salary? (The plan now being followed does not fix the personal responsibility of the investigators or the coordinator to anyone.)
- 3) The board needs a full-time coordinator not associated with any other department and responsible only to the board. The coordinator should be provided with travel expenses, so that the board could have personal contact with the investigators through the coordinator.
- 4) The board also needs personal contact with the operators of child care facilities to help and encourage them to improve their programs.
- 5) Commercial licenses cannot be renewed and no new operations licensed by the board under present conditions.
- 6) The board does not know if it is operating as an independent board.³⁶

During the discussion which followed, the report of the Joint Budget Committee was read as an indication of legislative intent. The director of welfare pointed out that the employees involved in the licensing program are and should be under the control of the agency paying them and that most of the staff members making the investigations were employees of county welfare departments. He appreciated the board's desire to talk to the investigators; the state and county welfare departments are not organized this way, and the department's procedures must be followed in the licensing program, e.g., county staff members visit child care facilities and reported to the area child welfare supervisors, who in turn report to the coordinator. Investigators, however, are using the forms, standards, and regulations of the board.³⁷

The assistant commissioner of education expressed the education department's concern over facilities whose prime purpose is education. The state should place this responsibility with the department best qualified to handle it, and the education department should have this responsibility.³⁸

34. Minutes of the Board of Standards meeting held December 13, 1961.

35. Ibid.

36. Ibid.

37. Ibid.

38. Ibid.

The vice chairman of the board said that if the board paid the coordinator, it would take the burden off the various agencies now involved in the program. The secretary of the board expressed the opinion that the welfare department is running the board, and thus, the board cannot issue licenses because it is not in control of the situation.³⁹

The director of the health department expressed his concern over the lack of budget and personnel to carry out his department's functions with respect to the licensing program. He stressed the need for interagency cooperation and the desirability of using an advisory committee.⁴⁰

The governor's executive assistant said if the governor provided funds to pay a coordinator, he would be defying the intent of the legislature. He suggested that the coordinator be responsible to the board, even though paid by another agency. He added that he felt the interagency relationship problem could be worked out by cooperation among the various departments, the board, and the coordinator.⁴¹

January 1962 Board Meeting. At the January 10 board meeting, the three members present had several questions concerning the arrangement worked out between the state and Denver welfare departments and the Denver health department for the inspection of child care facilities. It was the opinion of the board members present that two written agreements were necessary: 1) covering the working arrangement between the state and Denver welfare departments; and 2) covering the working arrangement between the Denver departments of welfare and health.⁴²

Further, the board inquired as to how it could ascertain the facts in detail if the welfare department recommended a license be denied. In this connection, the board wanted to know what alternatives it had for investigation if it reversed a welfare department recommendation.⁴³ The board concluded its business by: 1) requesting the welfare department to permit the coordinator to make individual investigations for specific purposes as determined by the board; 2) designating a three-member executive committee to carry on board operations between regular meetings; and 3) approving the lists for licensing submitted in October, November, December, and January.⁴⁴

The Denver inspection program was given further consideration at the February board meeting but no decision was reached. The board reviewed a letter from the director of welfare asking if two written agreements were necessary. The board directed its chairman to reply and affirm that both written agreements would be required by the board.⁴⁵

Approval of Denver Agreement. The working arrangements between the state welfare department and the Denver departments of health and welfare as specified in written agreements were approved by

39. Ibid.

40. Ibid.

41. Ibid.

42. Minutes of Board of Standards meeting, January 10, 1962.

43. Ibid.

44. Ibid.

45. Minutes of Board of Standards meeting, February 7, 1962.

the board at its March 15 meeting.⁴⁶ All of the details were not worked out until April, when the maternal and child health division began filling out inspection forms for the Board of Standards. Terminating several months of discussion, the board and other agencies participating in the licensing program reached agreement on their respective functions and the relationship among them at the March 1962 meeting. In addition, the duties of the coordinator were stipulated in writing and approved by the board.⁴⁷

Licenses Issued 1961-1962. Despite the difficulties and delays in working out the licensing program arrangements made necessary by termination of the board's appropriation, there was no decrease in the licenses issued child placement agencies, camps, and welfare homes. There was a sizable decrease, however, in the licenses issued commercial family foster homes, nurseries and centers, and institutional foster homes. Most of these facilities were in Denver, and the failure of the board to issue licenses can be traced to the difficulties in working out arrangements for investigations. Table IV shows the number of licenses issued by the board and by the City and County of Denver in fiscal year 1962, according to the type of facility.⁴⁸

Table IV

CHILD CARE LICENSES ISSUED BY THE BOARD OF STANDARDS
AND THE CITY AND COUNTY OF DENVER, 1961-1962

<u>Type of Facility</u>	<u>Board of Standards</u>		<u>Denver</u>		<u>Total</u>	
	<u>No.</u>	<u>Children</u>	<u>No.</u>	<u>Children</u>	<u>No.</u>	<u>Children</u>
Commercial Family						
Foster Homes	569	2,175	441	1,093	1,010	3,268
Nurseries and Centers	71	2,138	42	1,700	113	3,838
Institutional Foster Homes	7	477	14	1,275	21	1,752
Child Placement Agencies	6	---	---	---	6	---
Children's Camps	129	14,264	---	---	129	14,264
Welfare Homes	670	2,019	---	---	670	2,019
State Children's Home	3	3	---	---	3	3
Total Number Issued	1,455	21,076	497	4,068	1,952	25,144

46. Minutes of Board of Standards meeting, March 15, 1962.

47. Ibid.

48. Denver's licenses were issued pursuant to ordinance.

LEGISLATIVE COUNCIL STUDY

The Joint Budget Committee did not approve an appropriation for the Board of Standards for the 1962-1963 fiscal year, and again efforts to restore the board's appropriation were unsuccessful on the floor of the General Assembly. The General Assembly then passed House Joint Resolution No. 14, which directed the Legislative Council to review the administration and organization of the Board of Standards so that its duties, functions, and policy-making decisions can most effectively and efficiently be carried out.¹

Two Legislative Council committees were already taking a look at the Board of Standards and the child care facility licensing program prior to the passage of H.J.R. 14 (1962). The Children's Laws Committee already had the subject on its agenda, as the Legislative Council directed the committee to study this subject at its 1961 meeting.² The Administrative Organization of State Government Committee included the Board of Standards among those boards, commissions, and independent agencies which it was examining to determine whether they should be eliminated and their functions transferred to other agencies. This committee held one hearing with board members and representatives from other participating agencies.³

At its March 15, 1962 meeting, the Legislative Council assigned the study of the board directed by H.J.R. 14 (1962) to the Children's Laws Committee.⁴ In assigning this study to the Children's Laws Committee, the Legislative Council approved the following directive:⁵

In studying the question of licensing of child care facilities, the Legislative Council directs the Children's Laws Committee to make a complete and thorough examination of all aspects of the problem and to give a full and impartial airing to all points of view regarding the Board of Standards and the departments of health, welfare, and education and their relationship in the promulgation and administration of licensing standards.

A thorough examination of the costs and efficiency of administering the program at all government levels at the present time should be made and compared with previous operations under the Board of Standards. Various alternative proposals to the present method of licensing should be thoroughly considered and the pros and cons on each detailed for the information of the General Assembly. The study should include but not be limited to:

1. House Joint Resolution No. 14, Forty-third General Assembly, Second Session, 1962.
2. Legislative Council, Minutes of April 27, 1961.
3. Legislative Council Administrative Organization of State Government Committee, Minutes of August 4, 1961.
4. Legislative Council, Minutes of March 15, 1962.
5. Ibid.

- 1) licensing in other states;
- 2) examination of present standards and reports of investigations to see if facilities meet standards;
- 3) need for legislative standards to guide the administering agency in the promulgation of rules and regulations;
- 4) views of present licensees regarding program;
- 5) number of child care facilities not licensed and/or improperly examined;
- 6) historical review of Board of Standards;
- 7) whether the program should be administered by the board or if the board should serve in advisory capacity or not at all; and
- 8) enforcement power of licensing authority.

Public Hearings

The Children's Laws Committee held two public hearings on April 25 and May 26. Members of the Board of Standards and representatives of the various agencies involved in the licensing program were invited to testify at the April 25 hearing.

Operators and directors of the different types of child care facilities were invited to testify at the May 26 hearing. Others asked to appear at the May 26 meeting included: Board of Standards members, agency representatives, former board members, representatives of the League of Women Voters, and interested lay people with experience in child care and health programs.

April 25 Hearing

Those invited to meet with the committee at the April 25 hearing were informed that the following subjects would be covered:

- 1) present status of the licensing program and the relationship among the concerned agencies;
- 2) adequacy of the present program and an enumeration of deficiencies, if such exist;
- 3) recommendations for improvement;
- 4) need for legislative standards to guide the administering agency in the promulgation of rules and regulations;
- 5) adequacy of enforcement authority; and

6) any other related matters.

In addition to the topics listed above, the director of the welfare department was asked to present information on the costs and staffing of the present program, including salaries, travel, administrative overhead, etc. He was also asked if the assumption of licensing inspections by the welfare department has resulted in additional costs to county welfare departments, and, if so, which ones, the amount, and reasons.

The director of the health department was asked for information concerning: 1) the present and previous functions of the state and local health departments with respect to licensing and inspection of child care facilities; 2) relationship of state and local health departments in this program with welfare and the Board of Standards; and 3) personnel and costs resulting from health department participation in this program. The director of the Maternal and Child Health Services Division, Denver Department of Health and Hospitals, was asked to explain the Denver inspection and licensing program and its relationship to the Board of Standards program.

The education commissioner was asked to delineate the difference between educational and child care facilities and what, if anything, should be the State Department of Education's responsibilities with respect to the latter.

Statement by the Board Chairman. Miss Grace Kenehan, chairman, Board of Standards, stated that she was speaking as an individual board member rather than for the board. She then discussed the subjects outlined in the meeting invitation:⁶

1) Status and Adequacy of Existing Program -- Problems exist because the coordinator was employed by the welfare department, one of the agencies to be coordinated. The coordinator has to work through welfare department channels on both the state and county level; consequently, her ability to serve the board and the licensing program is limited to what the welfare department will allow her to do. The difficulties encountered during the first few months after the board's appropriation had been terminated make it imperative that it keep in constant communication with the director of welfare and that such communications be written. As an example, she cited the difficulty in working out an agreement on the Denver inspection program.

2) Recommendations for Program Improvement -- The licensing program is proceeding as well as might be expected, considering the problems which develop whenever new procedures are involved. A licensing program cannot be successful without the confidence and cooperation of licensees. This confidence was at a low ebb after the board lost its appropriation, but is being restored through the efforts of the board and the work of the welfare and health departments. The present program requires constant and continuous rapport among the board, the various departments and agencies involved, and the operators. Improvement can be achieved through contact with operators and by programs to assist them in upgrading their operations. In this

6. Legislative Council Children's Laws Committee, minutes of meeting of April 25, 1962.

connection, the welfare department is holding institutes and workshops for operators, and the coordinator has arranged a class at Opportunity School for those interested in day nursery work. Approximately 35 are enrolled, and there is a substantial waiting list.

3) Need for Legislative Standards -- Legislative intent would be spelled out more clearly and the question of unlawful delegation of legislative authority laid to rest if licensing standards were included in the statutes under which the board operates.

4) Adequacy of Enforcement Authority -- The board has no authority to stop the operation of child care facilities which are unlicensed. The board recommended legislation to give it injunctive powers, and a bill was introduced in 1959 but was not adopted.

Statement by the Board Vice Chairman. Monsignor Kolka, board vice chairman, said that it was difficult to determine the intent of the General Assembly at the time the board's appropriation was terminated. Apparently the legislature wished the board to continue with staff provided by other departments as specified in the child licensing statutes. After several meetings were held, the welfare department was asked to work with and for the board; this request had the approval of the governor's office. The basic problem was the lack of funds, because the welfare department had no budget for this purpose. The program change took place on July 1, 1961, but it was September before a coordinator was employed. During the intervening period, the welfare department had to become familiar with the program. As a result, there was a delay in licensing. Further, there were official communication problems between the board and the welfare department.

In amplifying his statement on communication problems, Monsignor Kolka said that it was necessary to have agreements and communications in writing in order to keep board members informed and to avoid misunderstanding. He cited two examples:⁸

1) The welfare department without the board's knowledge had made a semi-commitment to a person to supervise nursery school inspections. This person was a commercial operator, and when the board found out what was proposed, it vetoed the employment of this person, because it felt that other commercial operators should not be under the control of a person who is also a commercial operator, regardless of qualifications.

2) Arrangements had been made in a verbal manner as before by the board with the Denver health department for the inspection and licensing of commercial homes in Denver. It was decided by the attorney general's office that the board could not delegate its investigative and licensing powers. Several meetings and considerable discussion were necessary before formal arrangements could be made.

Statement by the Director of Welfare. Guy R. Justis, director of welfare, said that it is the board's responsibility to develop and promulgate standards and the welfare department's responsibility to operate under these standards. The welfare department recommended that inspections in Denver remain with the health department, which has had

7. Ibid.

8. Ibid.

this responsibility by ordinance in Denver for 15 years. It seemed undesirable to have these efforts duplicated by the Denver welfare department, especially since the welfare department staff had no experience in this area.

As far as the rest of the state is concerned, county welfare workers are not trained in the nursery field. This was the reason why the department considered contracting for the services of some one trained and qualified to supervise this program. The welfare department approached the day care nursery operators' association for recommendations. The association recommended its president for this position and her employment on a consulting basis had been approved by the governor's office prior to the board's disapproval. Commercial nurseries primarily provide nursery care, but pre school and kindergartens have educational programs, which welfare workers are not qualified to evaluate.

The welfare department did not receive any additional funds to carry out its new responsibilities under the licensing program. The department gave up one of its clerk-steno positions, in order to place the board's clerk-steno on the payroll. Only one-third of the coordinator's time is devoted to matters other than those related to the licensing program. In order to have sufficient funds to employ the coordinator, the department left a departmental consultant position unfilled. It costs the department approximately \$9,000 per year to provide staff services for the Board of Standards.

The coordinator does not make field investigations herself; rather, these investigations are handled by the county departments, with the exception of Denver, as previously indicated. During the past year, the camp investigations were made by the two men who had been employed for this purpose previously by the board. These men were on the welfare department payroll for only two months. Most of the county departments indicate that their staff members can make at least a few of the camp investigations in the future.

The board's statutory enforcement authority is virtually nil. Nothing effective can be done about operators who never apply for a license, and little can be done about the continued operation of facilities for which licenses have been denied or revoked. The difficulties during the first few months of the joint effort with the board resulted from the newness of the program. It takes time to get the machinery working effectively. A team approach is needed to insure adequate investigation. The team should include welfare, health, and educational personnel. The major constitutional question is whether the present statutes actually give the board the authority to set standards.⁹

Statement by the Commissioner of Education. Dr. Byron Hansford, Commissioner of Education, said that some of the child care facilities licensed by the board are primarily educational in nature -- kindergartens and pre schools, for example. Proper investigation of these facilities requires educational specialists. The education department would need additional funds and staff to handle this function. The inspections would be performed by staff members of the state department rather than local district employees, with the possible exception of a few larger districts.¹⁰

9. Ibid.

10. Ibid.

Statement by the Child Welfare Division Director -- Miss Marie Smith, director, Child Welfare Division, State Department of Welfare, said that when the welfare department was given the responsibility for staff services, a suggested plan of operation was drafted and submitted to the Board of Standards for its consideration. Under this proposal, it was suggested that the department be responsible for coordination and clerical work and for obtaining and supervising other professional staff as needed. These additional people would be employed on a contract basis upon board approval. While it was true that there was no coordinator as such from July 1 to September 1, this function was not neglected, as she served as coordinator during this period. Turning to the disagreement over hiring a commercial operator as a nursery school consultant, she explained that the department recognized that it had no one qualified in this area, and the education department had no funds or staff available. It was proposed that the nursery school consultant serve as part of the inspection team. This proposal was submitted to the governor's office, where it was approved, but the board objected.

The Child Welfare Division was asked by the Association for Childhood Education to assist them in setting up workshops on day care, kindergartens, and nursery schools. Excellent cooperation was received from county school superintendents, school and health department staff members, fire marshals, and the operators themselves. The welfare department assumed full responsibility for this program, because the Board of Standards did not wish to participate at that time and informed the director of welfare in writing of this decision. The welfare department is willing to accept its share of the blame for communication problems. However, it has not always been easy to find out what the board wished done and the procedures it wanted followed.¹¹

Further Remarks by Monsignor Kolka. Monsignor Kolka commented that the board felt that the welfare department had gone ahead with the workshop program without notifying it. The board was only notified after all arrangements had been made. If the welfare department is the agent of the board, then the policies, procedures, and arrangements for such programs must be cleared with the board, if the board is to act as a sponsor. This situation is another example of the lack of communication between the department and the board. Concerning the proposed hiring of the nursery school consultant, the board did not object because the person recommended was incompetent; it objected because it felt it was not prudent or judicious to employ a commercial operator in this capacity.¹²

Statement by Chief of the Maternal and Child Health Section (State). Dr. Elwyn N. Akers, chief, Maternal and Child Health Section, Children's Health Services Division, State Department of Public Health, explained the health department's role in the licensing program. The health department has been cooperating in the program since July 1, 1961. The department had considerable experience in working with the board prior to that time, and working relationships have been cordial.

11. Ibid.

12. Ibid.

The difficulties arise out of statutory conflicts. Both the department and the board are given certain responsibilities by law, and these responsibilities overlap. The board is responsible for promulgating and enforcing standards for child care facilities. These standards presumably include health and sanitation. The health department has the statutory responsibility for developing and enforcing sanitary standards.

Prior to July 1, 1961, the health department and the board held several meetings to work out health and sanitary standards, and the difficulty has been minimized since the board adopted these standards. Inspections cause some problems, however, because often it is not possible for the health department inspector to visit a facility at the same time as other inspectors. This has resulted in operators being subjected to multiple inspections and a delay in licensing until all inspections have been completed.

Since July 1, 1961, the department has inspected additional facilities for the board and has provided consultation on sanitation and general health problems. The Board of Standards should have the same enforcement authority as the health department. Local health officers also operate at a disadvantage with respect to the licensing program, because they may be using standards adopted locally or pursuant to a home rule city ordinance. Further, the classification of the different types of child care facilities is vague. Surprisingly, the board has not appeared to be concerned with this problem. Further, the board usually allowed the child placement agencies which it licensed to be responsible for the inspection of their own foster homes. There is a question as to whether this practice constitutes a legal delegation of authority.

It is costing the state health department approximately \$10,000 a year to assist in the licensing program. Some of Dr. Akers' time is involved, along with one and one-half sanitarians. Only 21 counties have organized health departments, so a large portion of the load falls on the state department.¹³

Statement by the Director of Maternal and Child Health Services (Denver). Dr. Ruth Raattama, director, Maternal and Child Health Services, Denver Department of Health, explained licensing in the City and County of Denver. Several city agencies are involved under Denver's ordinance requiring the inspection and licensing of child care facilities. These include: zoning administrator, building department, disease control, fire department, visiting nurse service, and environmental sanitation. Denver has more than 400 commercial family foster homes, 200 agency homes, 42 day care centers and nursery schools, and 12 full-time (24-hour) child care facilities.

The maternal and child health division is proceeding satisfactorily in performing investigations for the board in Denver. The Denver ordinance is weak and needs revision, but possibly Denver's standards and inspections might be more stringent than the board's. Occasionally, a child care facility which is refused a license in Denver

13. Ibid.

will move into a surrounding county and continue to operate. Consideration should be given to the differentiation between nursery schools, kindergartens, and private schools; perhaps some control should be exercised over private schools.¹⁴

May 26 Hearing

More than 100 operators and directors of the different kinds of child care facilities throughout the state were invited to meet with the committee and asked to make statements if they wished. Those who could not be present but wished to comment were asked to submit a written statement to the committee. Included in the letter of invitation was a list of topics on which the committee requested the operators to comment. These covered: 1) adequacy of the present licensing program; 2) comparison of the present program with the one in operation prior to July 1, 1961; 3) directions of the licensing program in the future with respect to: a) administration, b) legal framework, c) appeal procedure, d) standards, and e) educational facilities. Any other pertinent remarks or comments were also solicited. The testimony submitted both orally and in writing at the May 26 meeting is summarized below.¹⁵

Statement by Mrs. Frederick B. Orman. Mrs. Orman said that for a great many years she had worked as a volunteer in many programs affecting children and had served on many boards, both public and private. Her concern and participation in programs and organizations related to children had given her the opportunity to observe the Board of Standards program and to be close to the problem of licensing child care facilities. It was her opinion that the Board of Standards had been created as a stop-gap compromise to meet the wartime emergency situation. At the time it was established, it was understood that it would work closely with other state agencies, but it operated as a separate unit and did not work closely with other agencies. She objected to the elimination of the restriction on the number of terms a board member may serve, because there are dangers inherent in any governmental board when there is no provision for a rotation of membership.

It was her opinion that the failure of the board to approve licenses for a four-month period after reports were made by duly accredited welfare staff members and certified by the coordinator was nothing more than a delaying tactic or a sit-down strike. There may have been a time when a dedicated and interested lay group could have rendered a service by coordinating the licensing program, but that time is long gone. All of the other states have faced this problem, and most of them have solved it by placing the authority within the organized governmental framework rather than with a separate board.¹⁶

14. Ibid.

15. The testimony presented at the May 26 hearing was voluminous. The more pertinent comments are presented here in abbreviated form. Copies of the meeting minutes are available in the Legislative Council office.

16. Legislative Council Children's Laws Committee, minutes of meeting of May 26, 1962.

Statement by Mrs. Louis Pollock. Mrs. Pollack, a former member of the Board of Standards, cited the need for streamlining governmental functions by ending duplication of agencies and programs. She stressed the importance of professional qualifications and training in programs relating to child care. Forty eight states have placed the licensing responsibility in their departments of health, welfare, and education, and this approach is sound. Licensing, to be effective, requires interdepartmental planning, and this cannot be provided by an isolated board, outside of the framework of organized government. There is a place in the licensing program for a lay board or committee, but it should be an advisory rather than a policy making body. The competence of the state welfare department has been questioned, yet this department has been given the responsibility of administering a \$90 million program dealing with thousands of people.¹⁷

Statement by League of Women Voters. The League of Women Voters' statement was presented by Mrs. Paul Thompson of Boulder. The statement included league-approved child care standards, as well as standards for evaluating governmental organization and programs. These standards are: 1) Only qualified persons should be entrusted with the responsibility for the disposition, care, and training of children. 2) There should be close cooperation between various agencies and branches of government working with children's problems. 3) Institutions used for children should meet modern standards. 4) Authority and accountability should be clearly placed in program administration. 5) Administrative programs should be coordinated.¹⁸

These standards were then applied to the licensing program. The league's chief criticism of the licensing program in the past has been its lack of professionally qualified direction. The board's budgets have been inadequate to hire a complete staff of trained personnel, and in recent years, the board has turned to the health department to help set health standards for youth camps and to train its summer camp inspectors. The board has seldom, if ever, turned to the welfare department in the past for help in developing foster home standards, and never, as far as the league knows, to train foster home inspectors. While the board has made use of the welfare department's facilities and services in the past year, it seems to have been a reluctant and uneasy alliance on the board's part.

The minimum standards set forth in the handbooks issued by the board have dealt chiefly with physical aspects of child care facilities and very little with the qualifications of the operator or with the type of program offered.

The league does not believe that authority and accountability are clearly placed when the licensing authority is a lay board with seemingly no limitation on terms of office and seemingly reporting to no one. A lay board with limited terms of service can have great value in an advisory capacity, but such a board should not exercise administrative control.

17. Ibid.

18. Ibid.

Administrative programs should be coordinated so that each department of government shall discharge its appropriate function in such a way as to avoid wasteful duplication. The Board of Standards has called upon the health department in recent years to train its personnel to do camp inspections, but local public health sanitarians are required to do these anyway. In 1960 the board, recognizing the impossibility of operating from just a Denver base, asked for extra funds to create branch offices in Colorado Springs and Grand Junction. County bases are necessary to do the work of licensing child care facilities all over the state, but it seems wasteful duplication for the board or any other separate agency to set up, at taxpayers' expense, investigative branches at the local level where county health departments, county welfare offices, and local school districts already exist. In other words, when the Board of Standards operates in a professional manner, it duplicates part of the work of another department. The league believes that the responsibility for licensing child care facilities would be most logically placed in the welfare department, but there would have to be close coordination with related functions of the departments of health and education.¹⁹

Statement by J. A. Cheley. J. A. Cheley, director of Cheley Colorado Camps, appeared on behalf of a group of summer camp operators. It is the feeling of this group that there should be some kind of measuring stick to protect the public and to provide a guide for camp operators. Accreditation by the Board of Standards means nothing to the public or to camp operators. It is hard to establish standards which give recognition to the types of experience offered youth at summer camps. A good investigator can ascertain many of the intangible values related to camp programs. The licensing responsibility should be placed in one agency, with investigators who understand camp programs, problems, and policies.²⁰

Statement by Mrs. Lucile Latting. Mrs. Latting, State Department of Education and a member of the Board of Standards, said that she hoped there would be no change in the licensing program unless a better plan than the present licensing program was devised. The placement of the entire program in the welfare department is not the answer. However, there are too many agencies and too much paper work involved in the present program.

Colorado's situation and program are peculiar in that pre schools and kindergartens are licensed by the same agency which also licenses other child care facilities. In other states, such as Maryland, pre schools or kindergartens are the responsibility of the department of education.

The board has been very conscientious, and the members do not look upon their positions as giving them special status. The board has tried to do what is practical, and professional workers have been consulted in the preparation of standards. Further, the board has given much time and effort in assisting operators to improve their standards, for example, workshops for operators which were sponsored by the board. Four such workshops have been held: Denver, fall 1960; and Colorado Springs, Englewood, and Grand Junction -- all in 1961.²¹

19. Ibid.
20. Ibid.
21. Ibid.

Statement by Earl Greinetz, Board Secretary. Mr. Earl Greinetz, secretary, Board of Standards, said that the board has had much undue criticism during his three years as a board member. The board's only concern has been to help the children of the state. The board has been operating under several handicaps. First, the board has no statutory enforcement power. Second, the appropriation and staff which the board had prior to July 1, 1961 were inadequate. Third, the board still has the statutory authority and responsibility for licensing, but it no longer has staff or any funds.

He denied that the board had gone "on strike" in protest over losing its appropriation. The board had waited four months to issue licenses, but that was not because the board was "on strike." Rather the board was concerned over the quality of the investigations. It had no personal contact with the investigators and had no way of knowing whether they were doing their job properly; board members were therefore reluctant to sign their names in approval.

The present situation is not good and never can be good. The board under the present arrangement is powerless to do anything for children. Either the board should be abolished and the licensing function placed with some other agency or the board should be continued with new legislation -- similar to that proposed in 1959. The board should not be continued without revised legislation; to do so would be no solution at all.

If the board is continued, there might be duplication of functions. On the other hand, a separate authority may be the best way to protect children. Who is to say that Colorado and West Virginia are not the most forward states in this regard instead of the most backward? Placement of the program in the welfare department is not desirable because the welfare departments in the outlying counties are not adequately staffed; perhaps the health department would be better for this reason. The welfare department has been concerned primarily with dependent and neglected children and small foster home facilities and not with commercial operators.²²

Statements by Operators.²³ Several operators of child care facilities made brief statements. Mrs. Dorothea Howard, operator of a commercial child care center in Colorado Springs, represented the Association of Childhood Education. She said that any arrangement involving the departments of health, welfare, and education would be satisfactory.

Mrs. Marjorie Milan, a commercial nursery school operator in the Denver metropolitan area, praised the welfare department investigators for their understanding of operators' problems. Previous investigators lacked this understanding. She recommended that the licensing program be placed in the Child Welfare Division, State Department of Welfare.

22. Ibid.

23. Ibid.

Mrs. Donald Turnquist, a pre school operator from Arvada, said that her school was operated solely to provide pre school learning experience and school readiness. She recommended that any licensing program include an educational consultant, trained and experienced on the pre school level.

Mrs. Florence VanSike, Colorado Springs commercial operator, said that present standards were not flexible, consequently, in many small towns, community needs are not being met because existing and potential facilities do not conform with physical standards. The quality of people working with children is far more important than the physical plant. Therefore, the licensing responsibility probably should be given the welfare department because of its experience in working with people.

Mrs. Thelma Nelson, Aurora, said that she has certified teachers in her school and uses the same curricula as the Aurora schools for her first and second grade classes. Parents have enrolled children in her school, because Aurora's schools are crowded and are on a split-level basis. She has not had any inspection since July 1, 1961, and wondered where her facility fits in the present licensing arrangement. She was concerned because a number of child care facilities had sprung up in Aurora, and these facilities were operating without licenses; their programs were poor; they were not serving adequate meals; etc. The public and legitimate operators should be protected, and they are not at present. Licensing could be done by a team of agencies or by one, but in either case, all inspections should be made at one time, and the red tape and confusion which she has experienced in her relationship with the Board of Standards should be eliminated.

Written Statements. Several written statements were received from placement agency officials and child care facility operators who were not able to be present at the hearing.

Mrs. Jessie B. Johnson, executive director, Family and Children's Service of Colorado, and Alfred M. Neumann, executive director, Jewish and Children's Service of Denver, recommended that the licensing function be placed in the Child Welfare Division, State Department of Welfare. Mrs. Johnson supported this recommendation by stating:²⁴

The State Child Welfare Department working through County Child Welfare Departments would mean local licensing which in itself has many advantages, for example, locating, identifying and listing licensed homes caring for children; providing consultation on a continuing basis and not just at the time of issuing the license; the local child welfare advisory committees, which are presently in existence, would lend immeasurable strength and support in interpretation, education and acceptance by the various counties, of good standards for licensed agencies, independent foster family and day care homes...

24. Letter dated May 25, 1962, to Representative Elizabeth E. Pellet, Chairman, Children's Laws Committee, from Mrs. Jessie B. Johnson, executive director, Family and Children's Service of Colorado.

It is my opinion that the present arrangement between the State Board of Standards of Child Care and the State Child Welfare Department of the Department of Public Welfare is inefficient. One state agency should carry both responsibilities.

If the State Board of Standards of Child Care is designated as the state licensing agency, is there not a question about the validity of one state agency licensing the facilities of another state agency? How valid is the appeal procedure when the hearing is before a board who also licenses? Appeal procedure, if the licensing is placed within the local child welfare departments, could be made to the State Child Welfare Department and ultimately to the State Board of the State Department of Public Welfare.

My recommendation would be to dissolve the State Board of Standards of Child Care and place its empowered responsibility with the State Department of Child Welfare.

Mr. Neumann, stated that his agency's relationship with the Board of Standards had been satisfactory and cooperative in the past, but recommended a change because of the facilities and personnel of the child welfare division. "Any investigator whose judgment is important and decisive in granting or denying licenses to offer service should be a fully trained, experienced child welfare worker who is totally familiar with children's needs."²⁵

Reverend Louis C. Stevik, director of Pueblo Catholic Charities, recommended that the Board of Standards be given adequate enforcement power and that there be statutory guide lines for the promulgation of rules and regulations.²⁶

Concern over the lack of enforcement authority and the need for statutory guide lines was also expressed by Mrs. Martha Hacker, operator of Creative Play Schools in Denver and Englewood. Further, she stated that the present organization of the licensing program can be considered suitable only as a stopgap until a better arrangement can be legislated. She recommended that the licensing function be shared by the departments of health, welfare, and education. The board, if retained, should serve only in an advisory capacity and should be composed of people with professional training in group care, public health, child welfare, education, and mental health.²⁷

25. Letter dated May 11, 1962, to Representative Elizabeth E. Pellet, Chairman, Children's Laws Committee, from Alfred M. Neumann, executive director, Jewish Family and Children's Service of Denver.
26. Letter dated May 16, 1962, to Representative Elizabeth E. Pellet, Chairman, Children's Laws Committee, from Reverend Louis C. Stevik, director, Pueblo Catholic Charities.
27. Letter dated May 24, 1962, to Representative Elizabeth E. Pellet, Chairman, Children's Laws Committee, from Mrs. Martha Hacker, director, Creative Play Schools.

Mrs. W. V. Noice, former director, Gunnison Nursery School, recommended that, insofar as possible, licensing be done by local boards appointed locally and familiar with local conditions. A state investigator should be available to assist the local board, but only if such assistance is requested. Schools which are primarily educational rather than custodial should be allied with the education department or at least be free from supervision by the Board of Standards. The quality of care is far more important than physical facilities. Mrs. Noice explained that her license was denied and her school closed in 1960 after eight years of operation because an inspector from the Industrial Commission reported that her basement playroom did not comply with fire regulations in the board standards, as it had only had one exit rather than two. Since her school closed, Gunnison has had no nursery school. Mrs. Noice closed her letter with the following comments:²⁸

Before my license was denied, my house was inspected by four different officials from the state, all with the same checklist, all duplicating each other's work. None of them bothered to inspect while school was in session so they could observe the program and judge my competence in handling children. They were interested only in compliance with regulations, even when it meant closing Gunnison's only nursery school and depriving many children of a valuable educational experience. Children would be better served and the state might save money by having one really competent investigator who would spend considerable time with new nurseries, helping them get off to a good start, and visit established ones every three or four years, or when requested. Where minimum standards cannot be met, operators should be required to inform patrons of this fact and let them decide whether they want their children to remain.

Statement of Former Board of Standards Staff Director.²⁹

Mr. Ray Harry, former staff director of the Board of Standards, explained the previous licensing program, outlined problems, and presented his recommendations at the July 25, 1962 Children's Laws Committee meeting.

His primary function was to supervise (full-time) the licensing of various facilities and institutions providing child care, including private and commercial foster homes, day nurseries, day care centers, placement agencies, and summer camps. Applications were granted upon request to any one interested. Three character references and a statement of medical health from any one having contact with the

28. Letter dated May 11, 1962, to Representative Elizabeth E. Pellet, Chairman, Children's Laws Committee, from Mrs. W. V. Noice. The Gunnison Nursery School was closed in 1960 which was before the new licensing program took effect, so she had no comments on the interagency arrangement.
29. Legislative Council Children's Laws Committee Minutes, meeting of July 25, 1962.

children were requested on the application form. After the applications had been completed and returned, a Board of Standards investigator visited the home or agency, and if the facility was found to be adequate, the applicant was then licensed at the next board meeting.

Occasionally a license was denied, and he would then be instructed to explain to the applicant the reasons for denial, procedures for hearings, and criminal penalties. The applicant would be notified usually by registered mail so as to obtain a delivery receipt. Those who continued operating without a license were referred to the local district attorney for appropriate action. The board, during the years he was staff director, denied five or six applicants because of poor quality of care. These operators either discontinued operations or, eventually after hearings, improved their care and were later licensed.

The initial license was issued for 12 months, with a renewal notice mailed to the licensee well before the expiration date. His investigators reinspected the premises, and if the facility still met the board's minimum standards, a license would be reissued without interrupting the licensee's operations. Some operators were requested to submit fire inspection certificates with their applications, and the Industrial Commission would make the inspections in those localities where the board felt inadequate local fire laws existed. Some communities permitted one basement exit; others met the board's minimum standards and required two exits. Because Colorado has no state fire marshal, the state lacks uniformity in local requirements.

His work was accomplished in joint effort with the state welfare department with respect to foster homes; the state health department with respect to summer camps; and the Industrial Commission with respect to safety regulations and training courses in safety and fire hazards. The department of education also helped through Mrs. Lucile Latting, who was also a board member. Cooperation was excellent with the Denver Department of Maternal and Child Care, which would investigate and submit applications for its own child care facilities, a procedure never found questionable. Much cooperation was received from the colleges and universities. For example, Dr. Gordon Barker, University of Colorado, asked his sociology students to work in day nurseries for experience. Students from a Colorado Springs high school also joined with junior college students from La Junta and Pueblo in providing assistance.

In his travels around the state he found that every community had some type of child care. It had become a large operation, because mothers, even in rural areas, had social permission to work. But the operators of these facilities either were afraid that they could not meet the standards or thought that a license was needed only if their facility cared for welfare cases.

There were some 200 summer camps when Mr. Harry took office, some of which were very exclusive and charged over \$100 per week per child. The summer camp investigations accomplished much in the way of improvement. Nine years ago, few camps had a chlorinated water supply, and the raw sewage flowed through pipes in the kitchen walls only to spill in nearby fields. This problem has been eliminated except in a few instances. Some new camps were established with old buildings having no fire exits and some with inadequate or no fire protection. Even

after these deficiencies were found and corrected, continued effort was needed on summer camps. New operators continued to enter the state and were uninformed of license procedures. The field staff had to try and locate them and inspect their facilities.

LICENSING OF CHILD CARE FACILITIES IN OTHER STATES

Only one state (West Virginia) besides Colorado has a separate board or agency with the responsibility for inspecting and licensing child care facilities. The rest of the states with licensing programs place this function in their welfare, health, or education departments or in a combination of these agencies. In some states a differentiation is made between those facilities which provide care primarily and those whose major purpose is educational. The former are usually the responsibility of either the welfare or the health department or both; the latter are usually the responsibility of the education department. Other states do not distinguish among child care facilities, so that one agency may have the prime responsibility for all of them, although other departments may share this responsibility or assist in the program.

A recent publication of the Children's Bureau of the United States Department of Health, Education, and Welfare summarizes state licensing programs for day care facilities, excluding those whose major purpose is educational.¹ Thirty-three states have mandatory responsibility for licensing both day care centers and family day care homes. Six have such responsibility for day care centers only, and three for family day care homes only. Eight states have no state responsibility for licensing and day care facilities.²

The state welfare department is the most common state agency given the responsibility for administering the licensing program (33 states). Other departments having this responsibility are: health (six states), health and welfare (three states), and other agencies (two states).³

Table V shows by state the department responsible for licensing day care facilities.

Detailed Review of State Programs

Fifteen states were selected for detailed review of child care facility licensing legislation. These included: California, Hawaii, Kentucky, Michigan, Minnesota, Missouri, Ohio, Oregon, North Carolina, Pennsylvania, Rhode Island, Utah, Washington, and Wisconsin. These 15 states were selected for two reasons: 1) The state welfare agency has the responsibility for all or a major portion of the licensing program, but other departments are also involved in most of these states; and 2) These states are representative of all states in size and location.⁴

1. Licensed Day Care Facilities for Children, Children's Bureau, Social Security Administration, U.S. Department of Health, Education, and Welfare, 1962.
2. Ibid., p. 4.
3. Ibid.
4. A detailed summary of the statutory provisions in these states is presented in Appendix D.

Table V ^aDEPARTMENT OF STATE GOVERNMENT RESPONSIBLE FOR LICENSING
DAY CARE FACILITIES, BY STATE

State	Department				
	<u>Welfare</u>	<u>Health and Welfare</u>	<u>Health</u>	<u>Education</u>	<u>Other</u>
Total 45 states	33	3	6	3	2
Alabama.....	x				
Alaska.....		x			
Arizona.....	x				
Arkansas.....	x				
California.....	x ¹			x	
Colorado.....					x ²
Connecticut.....	x ¹		x		
Delaware.....	x				
District of Columbia			x ³		
Florida.....	x				
Georgia.....	x				
Hawaii.....	x				
Idaho.....	x				
Illinois.....	x				
Indiana.....	x				
Iowa.....	x				
Kansas.....			x		
Kentucky.....				x	
Louisiana.....	x				
Maryland.....			x		
Michigan.....	x				
Minnesota.....	x				
Mississippi.....	x				
Missouri.....		x			
Montana.....	x				
Nebraska.....	x				
New Hampshire.....	x				
New Jersey.....				x	
New Mexico.....			x		
New York.....	x				
North Carolina.....	x				
North Dakota.....	x				
Ohio.....	x				
Oregon.....			x		
Pennsylvania.....	x				
Puerto Rico.....		x ⁴			
Rhode Island.....	x				
South Carolina.....	x				
Tennessee.....	x				
Texas.....	x				

	<u>Welfare</u>	<u>Health and Welfare</u>	<u>Health</u>	<u>Education</u>	<u>Other</u>
Utah.....	x				
Virginia.....	x				
Washington.....	x				
West Virginia.....					x ⁵
Wisconsin.....	x				

1. In California and Connecticut two departments have licensing responsibility. In California, licensing of public day care centers under the Child Care Center Program is the responsibility of the Department of Education; responsibility for all other facilities is carried by the Department of Social Welfare. In Connecticut the Department of Health assumes responsibility for day care centers and the State Welfare Department for family day care homes.
2. Board of Standards of Child Care.
3. The District of Columbia Commissioners are responsible for licensing day care facilities on recommendation of the Department of Public Health.
4. The Department of Health of Puerto Rico is classified here as a department of health and welfare since its function includes both of these fields.
5. State Licensing Board.
- a. Licensed Day Care Facilities for Children, Childrens Bureau, Social Security Administration, U.S. Dept. of Health, Education, and Welfare, 1962. Excludes 8 states with no responsibility for licensing day care facilities.

While portions of the licensing legislation in some of these states may be of some help as a guide, there is no one state law which could be used as a model for Colorado. Many of the states studied were found either to have a number of gaps in their legislation or to have provisions similar to some of those found unsatisfactory in Colorado (e.g., enforcement authority, lack of proper licensing standards). The statutory provisions of other states which may have some relationship to the Colorado situation are discussed below by major topic.

Interagency Cooperation

Three states (Oregon, Rhode Island, and Washington) require that health and fire inspections be made by the appropriate state or local agencies. Certificates of approval from such agencies are a prerequisite to obtaining a child care facility license. Two of these states (Oregon and Washington) permit the issuance of provisional licenses until certifications of approval are obtained, but in Oregon not all types of facilities may receive a provisional license.

Hawaii is the only state among the 15 which provides for multiple licenses. When the activities of the applicant fall within the licensing requirements of the department of public instruction and the department of social services, a license is required from both.

Some of the states handle the problem of interagency cooperation in other ways. In Missouri, local fire departments and the state health department are required by statutes to inspect and examine facilities licensed by the department of welfare. This statutory authority, however, includes no mention as to whether these inspections are part of the licensing program, and no reference is made to these inspections in the statutes delineating the welfare department's responsibility for licensing.

Michigan's licensing statutes provide that the superintendent of public instruction shall prescribe requirements for educational programs, teachers' qualifications, equipment, and special services for all facilities licensed by the department of social welfare. There is no statutory requirement, however, that department of public instruction personnel make inspections and evaluate these facilities. The Michigan licensing statutes also require the department of health to make sanitary inspections and provide advice on health matters for facilities licensed by the department of social welfare. The fire marshal is required to inspect child care facilities by the statutes pertaining to his office, but no mention is made of this requirement in the licensing statutes.

Utah has provisions in its licensing statutes on the participation of the health and education departments which are similar to Michigan's; however, the education department is required to make inspections, as well as the department of health.

Delineation of Standards

The statutes of very few of the 15 states examined spell out in any detail standards to be followed by the licensing agency. Illinois appeared to have the best provisions on standards, and these are as follows:

- 1) The operation and conduct of the facility and responsibility it assumes for child care;
- 2) The character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of the children;
- 3) The general financial ability and compliance of the applicant to provide necessary care for children and to maintain prescribed standards;
- 4) The number of individuals or staff required to insure adequate supervision and care;
- 5) The appropriations, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire prevention and health standards in conformance with state laws and municipal codes to provide for the physical comfort, care, and well-being of children;
- 6) Provision for food, clothing, educational opportunities, program, equipment, and individual supplies to assure the healthy physical, mental, or spiritual development of children served;
- 7) Provision to safeguard the legal rights of children served;
- 8) Maintenance of records pertaining to the admission, progress, health, or discharge of children;
- 9) The filing of reports with the department;
- 10) The discipline of children; and
- 11) Protection or fostering of the particular religious faiths of the children served.

Advisory Committees

None of the states covered in the survey had specific statutory requirements for an advisory group only for the child care facility licensing function. In some states, the child welfare or the public welfare advisory boards, committees, or commissions are charged with certain advisory responsibilities pertaining to licensing in addition to their other function. The Pennsylvania statutes, for example, provide that the advisory committee for children and youth shall advise the welfare department on the licensing of institutions and agencies. Missouri's division of welfare has the statutory power to appoint, when it deems necessary, advisory committees to provide professional or

technical consultation on welfare problems and welfare administration and to consult and advise the division on problems and policies incident to the administration of the particular function. In Minnesota, where the health department has the responsibility for the licensing of summer camps for children, the board of health has the statutory authority to appoint an advisory council to assist and advise the department, but the statutes do not spell out the selection and qualifications of the council's members.

Issuance of Licenses

Prerequisites. Three states (Oregon, Rhode Island, and Washington) as indicated above, provide that child care facilities must have certification and approval from the appropriate fire inspection and health agencies as a prerequisite to obtaining a license. Other required prerequisites include the following:

California: The institution or facility must meet the standards of conditions, management, and competence set by the welfare department.

Michigan: The need for the facility and the applicant's financial stability, good character, and intent must be established; the facility's equipment and services must be conducive to the welfare of children.

North Carolina: The need for such service for the public good must be established, and such service must be conducted by reputable persons or organizations.

Oregon: (In addition to health and fire safety compliance) a) adequate physical facilities; b) proper food service; c) satisfactory arrangements for medical supervision and care; d) establish that practices and policies provide adequately for the health, safety, and physical, moral, and mental well-being of children.

A number of states provide merely that applicants must meet the requirements set by the licensing agency.

License Fees. Provisions for license fees were found in only two of the states surveyed. Oregon requires day nurseries to pay a license fee: \$15 for facilities with fewer than 10 children and \$35 for facilities with more than 10 children. Pennsylvania requires summer camps for children to pay a license fee of \$10.

Provisional or Probationary Licenses. A number of states provide for the issuance of provisional or probationary licenses under certain conditions and circumstances. Following is a summary of these provisions:

Illinois: A probationary license may be issued to a newly established facility for a period not to exceed six months to allow such facility reasonable time to become eligible for a full license; however, a probationary license may not be granted to any foster family or group care home.

Michigan: A provisional license may be issued to any agency or foster home whose services are needed, but which is temporarily unable to conform to all rules and regulations; such license may not be in force for more than three years.

Ohio: A probationary permit may be issued for a period of less than one year, so that the facility may operate until minimum requirements have been met.

Oregon: A temporary certificate for a period of not longer than one year may be issued to group care home applicants who are not able to comply with the statutory standards and the rules and regulations.

Washington: Provisional licenses may be issued to applicants or licensees who are unable to conform to all the rules and regulations of the department. No such license may be issued unless the applicant makes at least minimum provisions for the health and safety of children and the department finds that an emergency need exists for the type of service the applicant proposes to render; such license cannot be renewed.

Enforcement Authority. Several states provide for injunctive relief, others for criminal action, and some for both. Following is a summary of these provisions:

California: The district attorney shall institute and conduct the prosecution of any action brought for the violation of any of the rules and regulations promulgated by the department of social welfare.

Michigan: Injunction proceedings may be brought for any violation of any order of the department of social welfare. Violation of any statutory provision is a misdemeanor.

Oregon: Injunctive relief may be had for violation of administrative rules and regulations. Criminal action may be brought for violation of statutory provisions or rules and regulations promulgated thereunder.

Pennsylvania: Injunctive relief may be had for violation of the administrative rules and regulations. Criminal action may be brought for operating a facility without a license or other violations of the statutes.

Rhode Island: The department of social welfare may enforce its rules and regulations by injunctive relief. Criminal actions may be brought for the violations of statutory provisions. Violations are misdemeanors.

Washington: Injunctions may be brought by the department of public assistance for operating a facility without a license or certificate of approval. There is no statutory provision for criminal action.

Wisconsin: Injunctions may be brought for operating a facility without a license. Criminal action may be brought for violation of statutory provisions. Violations are classed as misdemeanors.

PROBLEMS AND ALTERNATIVES

Present Program

Even though there are widely divergent points of view on the future organization and administration of the child care facility licensing program, there appears to be general agreement that the present arrangement is not satisfactory and is, at best, a necessary expedient until a new program is worked out and approved. The development of the present program was extremely complicated, and the process was lengthy; perhaps this might have been expected because of the number of state and local agencies presently concerned, either directly or indirectly, with the licensing of child care facilities. These include:

- 1) Board of Standards: a nine-member unpaid lay board responsible for the whole program, with a program coordinator employed and paid by another agency and whose statutory power to set standards and issue licenses may be unconstitutional;
- 2) Welfare: state welfare board (policy making functions), state welfare department (major responsibility for welfare participation in the program), child welfare division (responsible for coordinator and investigations and reports by county departments), 62 county welfare departments (make local investigations and reports), Denver welfare department (liaison between the state welfare department and the Denver health department on investigations and reports in Denver);
- 3) Health: state health board (policy making functions), state health department (coordinates department's participation in the licensing program with welfare, over-all responsibility for health department inspections, performance of inspections in 42 counties with no local health department), local health departments (except Denver, perform sanitation inspections), Denver health department (performs all investigations and submits all reports on Denver facilities);
- 4) Education: state education board (policy making functions), state department of education (has provided some assistance on standards for kindergartens, indirect interest in present program, department staff members serve on board and participate on program advisory committee);
- 5) Industrial Commission: performs safety inspections at request of Board of Standards;
- 6) Department of Institutions: participates on advisory committee; and
- 7) Local Fire Departments: perform fire safety inspections in some areas upon request.

The two major participating agencies, welfare and health, have long-established rules and procedures, which are generally followed regardless of the program involved. Fitting the licensing program into these departmental patterns in such a way as to be acceptable to the Board of Standards, which also has established but different operating procedures, has not been easy and has been the cause of much of the difficulty and conflict in the present program.

Major Questions

In examining alternatives to the present licensing program, the following questions need to be considered:

- 1) Which agency or agencies should have the prime responsibility for the licensing program? (Closely related is whether this function should be the responsibility of a lay board or a professional line agency.)
- 2) To what extent should other state agencies be involved in the licensing program and how can interagency cooperation best be achieved?
- 3) To what extent should local agencies be involved in the licensing program and how can cooperation with these agencies best be achieved?

There are several other matters which should be considered, because statutory changes and additions appear necessary, regardless of which agency or board is given the prime responsibility for the program. These include: 1) definition of facilities to be licensed; 2) adequate statutory standards; 3) license issuance, including prerequisites, fees (if any), provisional or probationary licenses, denial, revocation, and suspension procedures and the appeal procedure related thereto; and 4) enforcement authority.

Prime Program Responsibility: Some Alternatives

There are several ways in which the licensing program for child care facilities might be organized administratively:

- 1) The responsibility could be left with the Board of Standards, with the board given an adequate appropriation and staff. If the board is to be responsible for investigations, several field investigators would be needed and consideration should be given to establishing regional offices. If the board's function is to be one of coordination, then the board would at least need a full-time coordinator and secretarial and clerical services.
- 2) The state welfare department could be given the prime responsibility for licensing all child care facilities. If this approach were followed, machinery for interagency cooperation should be established which would provide for the participation of the health department (health and sanitation), education department (standards and qualifications for facilities whose main purpose is educational), and the Industrial Commission (safety inspections).
- 3) The state welfare department could be given the prime responsibility for licensing all child care facilities, except those whose main purpose is educational. These latter facilities could be the prime responsibility of the education department.

4) The department of health could be given the prime responsibility for the licensing of all child care facilities, or this function could be divided between the state departments of health and education, as indicated in 3) above. Machinery for interagency cooperation would still be needed.

5) The department of education could be given the prime responsibility for the licensing of all child care facilities, with provision for interagency cooperation.

Board of Standards

Prior to the termination of the board's appropriation, which led to a much fuller utilization of the services of the welfare and health departments, the Board of Standards had to determine: program content, ability to care for children, fire safety, adequacy of the physical facility, and compliance with health and sanitation standards. While other agencies assisted from time to time, the prime responsibility rested with the board. It is virtually impossible for any one agency to pass judgment on so many different matters, and the situation presumably would be complicated further by requiring the board to determine the adequacy of educational programs.

Several state agencies are already required by statute to perform certain functions which are also involved in the licensing program. These include the departments of health and welfare and the Industrial Commission. While the state education department has no statutory authority at present to regulate private schools or evaluate their programs and teachers, these would appear to be logical functions for this agency. Consequently, if the Board of Standards were to perform all functions related to the licensing program, it appears that there would be overlapping of responsibility and duplication of functions (which was also the situation in the past, prior to the time the board was denied an appropriation).

Even if all of the agencies now involved continue to participate in the licensing program, proponents of retaining the Board of Standards argue that a participating agency cannot coordinate the program properly and that this function should be the board's responsibility. Under such circumstances, the board, through a full-time coordinator employed by it, would establish procedures and patterns of operation for the participating agencies and would continue to have the final responsibility on the issuance, denial, and withdrawal of licenses.

It has been demonstrated during the past 18 months that the coordination of several participating agencies has been a long involved process. It remains questionable, however, whether this process would be helped or hindered by the continued imposition of another authority over the participating agencies, all of whom have certain statutory responsibilities and established patterns of operation.

The trend has been away from part-time boards exercising administrative, policy making, and decision making authority and toward the use of such boards and commissions in an advisory capacity. In this situation the question is whether a part-time lay board, even with

a known interest and experience in children's programs, agencies, and facilities, has the technical knowledge to review and sit in judgment on the work of professional staff people. This question is apropos whether the board is given the responsibility for all facets of the program and reviews the work of its own staff (all members of which presumably would have professional background and experience) or whether the board's responsibilities are to be those of program coordination and license issuance.

If the decision is made to continue the board in either of these capacities, consideration should be given to: 1) the establishment of more pertinent qualifications for board members; 2) a limitation on the number of consecutive terms a board member may serve; 3) a per diem allowance for board members, in addition to actual expenses; and 4) a detailed delineation of the board's functions and responsibilities and its relationship to other agencies.

Department of Health

The placement of the licensing program in the state department of health (as has been done in six states) would necessitate providing for sufficient staff. The department has difficulty at present carrying out both its statutory obligations and its present obligations to the Board of Standards in performing sanitation inspections because of a shortage of personnel on the state level and the existence of organized local health departments in only 21 counties. Many of these local departments are also understaffed and are therefore unable to perform sanitation inspections as quickly as might be desired. If the health department were to have the sole responsibility for the program, it would also require the addition of child group care specialists and educational consultants to the staff; the department does not now have personnel qualified in these fields. The addition of staff members to perform the necessary inspections and to evaluate child care and educational content would be a duplication of services which are generally considered the responsibility of the departments of welfare and education, respectively. Nevertheless, if the Denver experience is any criterion, the health department could undertake the program. It might be more satisfactory and involve less duplication to involve the welfare department on child care and the education department in educational programs. Another and perhaps better alternative would be to place the entire responsibility for facilities whose major purpose is educational with the state education department.

Department of Education

The placement of the entire licensing program in this state department would also require the addition of specialists in sanitation and child care on a consultant or staff basis, unless these functions were delegated to the departments of health and welfare, respectively. The education department, according to the commissioner, would also need funds for additional staff members to carry out responsibilities with respect to educational program content and teachers' qualifications. The comments on duplication of services made above with reference to placing the sole control in the department of health apply to the department of education as well.

Department of Welfare

If the welfare department were given the sole licensing program responsibility under circumstances similar to those described above for the health and education departments, it would also need staff members or consultants with health and educational training and experience. Investigations are now carried out by county welfare department personnel (with the exception of the City and County of Denver), except in those small counties without qualified workers. In these counties, inspections are performed by the Child Welfare Division supervisory field staff. This staff also gives supervision to the county child welfare workers performing this function in the other counties. Since it is not likely or feasible that additional staff or consultants could or would be hired on the county level (for example, what would be their functions, i.e., in addition to licensing?), these employees would have to be added on the state level, and the result would be a combination state and local inspection team, adding a further problem of coordination. Again, this would be a duplication of services generally considered the responsibility of other agencies. The responsibility could be divided between the welfare and education departments, but even though the major purpose of a facility may be educational, child care is still an important component of the program where pre schoolers are concerned.

Problems of Coordination -- A Suggested Approach

The previous discussion indicates that it would be difficult for any one state agency to assume the sole responsibility for the licensing program, because of the variety of disciplines involved. The successful division of functions among the various agencies would depend on interagency cooperation and the way such cooperation is handled by statute and by the agency given the prime responsibility for the program.

There is, however, a possible approach to the problem which might lessen the complexity of administering the licensing program and which might be mutually acceptable to all of the participating agencies.

This approach is based on the assumption that the welfare department is best qualified to determine whether a facility is adequate to provide proper child care. The welfare department is not qualified to determine fire safety, health and sanitation requirements, or educational program content, although all of these are involved in the provision of adequate child care. The health department has statutory authority independent of the licensing function to establish and enforce sanitary standards for child care facilities. Fire and safety inspections are performed by the Industrial Commission and local fire officials.

It is suggested, therefore, that the prime responsibility for licensing be placed with the welfare department, but that as a prerequisite to obtaining a license, a facility must meet the requirements of these other agencies with respect to safety, health, and sanitation. Recognizing that it is not always possible for these other agencies to have completed their inspections prior to the time of license application or renewal, a provisional license could be issued for a six-month period (renewable for an additional six-month period if necessary) or until such inspections are made, whichever period is shorter.

As indicated above, the welfare department is competent to determine whether a facility can take care of children adequately, but is not qualified to make judgments on educational programs. This is no reason, however, why the welfare department could not license nursery schools, pre schools, and kindergartens, but only as proper child care facilities. Separate legislation could be drawn to give the education department the authority and responsibility to examine the educational programs of pre schools and kindergartens. These facilities, if approved, could then be issued a license or a certificate by the education department showing that the facility is recognized as an educational institution. The facility's child care license would not be affected by the approval or disapproval of the educational program by the department of education; however, a facility not receiving an educational license, but having a child care license, should be prohibited from representing itself as an educational facility.

The details of the educational licensing legislation (which would be separate) should be worked out in conjunction with the department of education. There are two possible approaches to such legislation: 1) All facilities licensed for child care which also have educational programs could be required to have their programs reviewed by the department of education. 2) All such facilities licensed just for child care could have their programs reviewed by the education department on a voluntary basis if they wish to be recognized as an educational facility.

Advantages of This Approach. There appear to be several advantages to this suggested approach to the licensing of child care facilities in Colorado:

1) Each of the participating agencies would have separate and distinct responsibilities, so that overlapping functions should be largely eliminated, as would the possibility that agencies would step on each other's toes.

2) Because of this separation of functions, there appears to be no need for lengthy statutory provisions and administrative procedures pertaining to coordination and cooperation among agencies. The provisions in the licensing statute relating to this subject could be limited to the prerequisites for licensing (mentioned above) and a statement that a child care license differs from an educational license or certificate as provided for in the new education department legislation. It also appears that there would be no need for the licensing program to be handled by a non participating agency or board solely on the ground that such a deus ex machina is needed as coordinator.

3) It is likely that efforts to place private schools (even if confined to pre schools classes and facilities) under the supervision of the department of education may meet with considerable opposition. By not tying the two purposes together (child care and education), there is at least the possibility that these facilities will be regulated and licensed with respect to child care, even if not for education.

4) While some changes in the present definitions will be needed (especially with respect to exclusions), it does not appear that it would be necessary to make elaborate distinctions between day care and educational facilities. Such distinction is hard to make, because many facilities perform both functions.

5) The division of responsibilities should also simplify the appeal procedure, as will be discussed in more detail in the appropriate section to follow.

Other Problems

Delineation of Standards

Colorado's present licensing legislation provides only the following with respect to standards: "This board shall adopt and make available minimum standards required of persons or agencies seeking licenses under this article to operate foster boarding homes or child placement agencies, and shall make rules and regulations in harmony with approved standards for the conduct of such foster boarding homes and child placement agencies as shall be granted a license as provided in section 22-12-2."

In light of recent court decisions and legislative concern over the rule making and regulative authority given administrative agencies without proper legislative standards for such rules and regulations, it appears that the present Colorado provision cited above is at least inadequate if not unconstitutional.

The problem is caused by the need to spell out standards sufficiently by statute to satisfy the courts and to assure that the licensing agency has a clear, well-defined mandate from the General Assembly, while, at the same time, avoiding making the standards so detailed as to eliminate flexibility and to restrict unduly the licensing agency's decision making power and operations.

Unfortunately, the statutes of very few of the states examined spell out standards in sufficient detail to be of much help. The best of these in this respect is Illinois as indicated in the previous chapter of this report. It is suggested that standards similar to those in the Illinois statutes might be used.

License Issuance

This subject includes: the length of time for which licenses are issued, prerequisites for licensing, probationary or provisional licenses, and license fees.

The present Colorado statutes provide the following with respect to license issuance.

22-12-4, C.R.S. 1953. Investigation -- license renewal. --

It shall be the duty of the board on standards of child care to pass annually on the application of every agency which receives or accepts the children for placement or places children in private homes. Annually, at such times as the board shall direct, every such agency shall make a report to the board, showing its condition, management and competency to adequately care for such children as are or may be committed thereto or received thereby, the system of visitation employed for children placed in private homes, and such other facts as the board may require. When the board is satisfied that such agency is competent and has adequate facilities to care for such children, and that the requirements of the statutes covering the management of such agencies are being complied with, it shall issue to the same, without charge, a license to that effect, which shall continue in force for one year, unless sooner revoked by the board...

No mention is made of license fees, prerequisites for licensing, or provisional licenses.

The suggestion has already been made that certain prerequisites be established by statute for obtaining a license (prior approval by the appropriate agencies on sanitation and safety). To these might be added statutory requirements covering the character, financial stability, and experience of the applicant.

Provisional licenses might be issued under any of the following circumstances:

- 1) The applicant had not been inspected by the health department and either the local fire department or the Industrial Commission at the time the application was made.
- 2) The facility is needed in the local community and defects reported by the other agencies are minor, and the applicant or licensee has agreed to comply within a given period.
- 3) Through no fault of the applicant or licensee, the facility must be located temporarily in physical surroundings which do not meet standards.

License Fees. Very few states charge license fees, and some limit such fees to certain types of child care facilities. Fees should not be looked upon as a means of raising revenue; in fact, it is doubtful that they would even cover inspection costs unless set at a very high level. Caution must be exercised in determining the fee level, so as not to cause undue hardship to operators or force them out of business. Perhaps a differentiation should be made between non profit and commercial facilities, and size (number of children for which licensed) might be one criterion for determining the amount. It is suggested that the actual amount of each fee be set by statute rather than left to the administering agency.

License Suspension, Revocation and Appeal Procedure

The present Colorado statutes provide the following on suspension and revocation:

22-12-4 C.R.S. 1953 ... It shall be the duty of the board of standards of child care to suspend or revoke any license issued, in the event that the minimum standards provided for the operation of foster boarding homes are not maintained. Any such suspension or revocation shall be made only after a hearing by the board, at which hearing the licensee may be present in person or by representatives to hear the charges and offer any defense thereto. Any licensee shall have the right to petition to the proper court for a review of any order of suspension or revocation.

There are several problems with the above provision. First, revocation or suspension can be made for failure to comply with minimum standards, which standards have been established by the board without what appears to be a proper legislative delegation of authority. Second, although a hearing must be held, no time limits are specified, nor is the person whose license is being suspended or revoked or his representative required to be present at such hearing. The statute merely provides that he or his representative may be present. Third, there are no time limits set for such hearing, no specific requirement for notification, and no standards for the conduct of such hearing or bases for rendering a judgment. Fourth, there is no provision for a hearing if an initial application for license is denied.

It is suggested that the appeal procedure be the same as that contained in the Administrative Procedure Act (3-16-1 through 3-16-5, 1960 Perm. Supp. to C.R.S. 1953). If this act is followed there is no reason why the appeal cannot be heard by the issuing agency. For example, if the prime responsibility for the program were placed with the welfare department the statutes might require that such hearings be held by the director of public welfare or his designated representative, the director of child welfare, and the official responsible for the licensing program.

Both the health department and the Industrial Commission could follow their respective hearing procedures if an operator of a child care facility wishes to appeal a decision by either agency with respect to sanitary or fire safety conditions. If such appeal does not result in a reversal, then the welfare department could use the action taken by either or both of these agencies as grounds for suspension, revocation, or perhaps the issuance of a probationary license.

Hearings and appeals from education department actions should be entirely separate from the above procedures.

Probationary License. It is suggested that consideration be given to providing that the responsible agency can issue a probationary license, after a license has been suspended or revoked. Such license would be in force only for a limited period of time and only if the licensee complies with the conditions specified by the licensing agency.

Enforcement Authority

The present enforcement provisions are as follows:

22-12-6, C.R.S. 1953. Jurisdiction -- penalty. -- The juvenile court in counties or municipalities where juvenile courts are established by statute and the county courts or district courts in counties in which

no juvenile court are established by law, shall have exclusive jurisdiction for the hearing and disposition of cases involving violations of this article. Every person, agency, firm, corporation or association violating any one or more of the provisions of this article or intentionally making any false statement or report to the Board of Standards of child care or to any agency delegated by said board to make an inspection under the provisions of this article shall be deemed to be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars or more than three hundred dollars.

The Board of Standards has no injunctive authority and has found it difficult to use the above statute.

It is suggested the licensing agency be given injunctive powers and that such actions be brought by the attorney general's office, either initially, or upon failure of a district attorney to take action. Further, the instances in which such authority may be exercised should clearly be spelled out by statute.

APPENDIX A

ARTICLE 12

Boarding Homes and Placement Agencies

22-12-1. Definitions.--(1) A foster boarding home is defined, for the purpose of this article, as any institution, residence, dwelling or home, including nursery schools, day nurseries, and children's camps, in which is maintained a home either for the whole of the day or for any part of the day for a child under the age of sixteen years who is not related within the second degree to the operator of said home, dwelling, residence or institution. This article shall not be interpreted to apply to public, private, or parochial schools or colleges, or nursery schools operating under the auspices of public, private or parochial schools or colleges, or to the occasional care of children with or without remuneration; except that it shall include those schools which give twenty-four hours care to dependent or neglected children.

(2) Any corporation, association or individual whatsoever who places or arranges for placement for care of any child under the age of sixteen years with any family, individual or institution other than persons related within the second degree to said child shall be deemed for the purposes of this article to be a child placement agency. The natural parents of any child who place said child with any institution, corporation or association for care licensed as a foster boarding home under the definitions of this article shall not be deemed to be a child placement agency.

22-12-2. Foster boarding homes--license.--No person, firm or corporation shall engage in the business of operating or maintaining a foster boarding home for the care of children under the age of sixteen years without first being duly licensed, without charge, to do so by the board on standards of child care established by section 22-12-3 or in lieu thereof hold a certificate from a duly licensed child placement agency in form prescribed by the board on standards of child care and provided by the state department of public welfare to the effect that such licensed and authorized agency regards such person as maintaining a home suitable for the care of children and specifying the name and address and religious faith of the person to whom issued, the number and ages of children for whom such person is certified to care and such other information as the board may require. The agency issuing or renewing any such certificate shall forthwith transmit a copy or report thereof to the board on standards of child care. No person shall be certified by more than one licensed agency but any person so certified may receive for care at board or otherwise a child from other sources, upon the written consent and approval of the certifying agency as to each child.

22-12-3. Placement agencies--license, etc.--

(1) No person, agency, firm, corporation or association shall receive or accept a child under sixteen years of age for placement, or place such a child either temporarily or permanently

in a home other than the home of the child's relatives within the second degree, or solicit money for the purpose of child placing without having in full force a written license, without charge, from the board on standards of child care.

(2) Every agency licensed as provided in section 22-12-2, to receive, secure homes for, or otherwise care for children, shall keep a record containing: the dates and places of birth, the names, ages and former residences of all such children received; a statement of the physical and mental condition of such children by a competent physician; the names, former residences, occupations, and character so far as known of the parents, the dates of reception, placing out in foster homes together with the name, occupation and residence of the person with whom the child is placed; the date and cause of any removal to any other home, and a brief history of each child and such other facts as the board on standards of child care shall require. A child placement agency shall consider the religious faith of the child and endeavor to make the placement with a home or family of the same religious belief.

(3) A board of standards of child care consisting of nine members who have a known interest and experience in administration of children's services shall be appointed by the governor. There shall be one representative of the department of public welfare, one representative of the department of public health, one representative of the office of the superintendent of public instruction, one representative from the board of the Colorado state children's home, two representatives from rural areas, and one each from a Catholic, a Protestant and a Jewish organization sponsoring child care programs. This board shall adopt and make available minimum standards required of persons or agencies seeking licenses under this article to operate foster boarding homes or child placement agencies, and shall make rules and regulations in harmony with approved standards for the conduct of such foster boarding homes and child placement agencies as shall be granted a license as provided in section 22-12-2. Four members of the board on standards of child care shall be appointed for a term of one year and five shall be appointed for a term of two years; thereafter appointments shall be for terms of two years. In carrying out its functions the board on standards of child care may make use of the facilities and services of any existing state board or department, such as the department of public welfare, the state board of health, and other such agencies, or it may at its discretion appoint committees of its own membership to perform certain delegated investigations or duties.

(4) No person shall hereafter assign, relinquish or otherwise transfer to another, other than a relative of the child within the second degree, his rights or duties with respect to the permanent care or custody of a child under sixteen years of age unless specifically authorized or required to do so by an order or decree of court or unless the transfer is made to or by a duly licensed placement agency or unless such child is placed in a foster boarding home duly licensed as provided in section 22-12-2.

22-12-4. Investigation -- license renewal. -- It shall be the duty of the board on standards of child care to pass annually on the application of every agency which receives or accepts the children for placement or places children in private homes. Annually, at such times as the board shall direct, every such agency shall make a report to the board, showing its condition, management and competency to adequately care for such children as are or may be committed thereto or received thereby, the system of visitation employed for children placed in private homes, and such other facts as the board may require. When the board is satisfied that such agency is competent and has adequate facilities to care for such children, and that the requirements of the statutes covering the management of such agencies are being complied with, it shall issue to the same, without charge, a license to that effect, which shall continue in force for one year, unless sooner revoked by the board. The board may on its own motion inspect by its own visitation and in any event shall cause to be inspected annually, or more often, if the board shall so direct, all foster boarding homes which may be licensed or which may apply for licenses under this article. It shall be the duty of the board of standards of child care to suspend or revoke any license issued, in the event that the minimum standards provided for the operation of foster boarding homes are not maintained. Any such suspension or revocation shall be made only after a hearing by the board, at which hearing the licensee may be present in person or by representative to hear the charges and offer defense thereto. Any licensee shall have the right to petition to the proper court for a review of any order of suspension or revocation.

22-12-5. Advertising. -- No person, firm, corporation, or individual subject to this article shall advertise or solicit for either the placement or care of children under the age of sixteen years without having first secured a license or certificate as provided in section 22-12-2.

22-12-6. Jurisdiction -- penalty. -- The juvenile court in counties or municipalities where juvenile courts are established by statute and the county courts or district courts in counties in which no juvenile courts are established by law, shall have exclusive jurisdiction for the hearing and disposition of cases involving violations of this article. Every person, agency, firm, corporation or association violating any one or more of the provisions of this article or intentionally making any false statement or report to the board on standards of child care or to any agency delegated by said board to make an inspection under the provisions of this article shall be deemed to be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars or more than three hundred dollars.

22-12-7. Board furnished office and clerks. -- Upon request of the board on standards of child care, the division of child welfare of the department of public welfare is hereby authorized and directed to furnish such office space and clerical assistance as may be necessary to permit said board to perform the functions and duties required by this article.

APPENDIX B

Working Agreement on Denver Investigations, Functions of State Agencies Participating in the Licensing Program, and Duties of Program Coordinator

A. Working Agreement on Denver Investigations

I discussed the Denver situation with Miss Marie Smith, expressing your feelings as to a city department making investigations for a state department, mentioning that the Board on Standards of Child Care felt the reports as submitted at the August meeting were incomplete because they were unsigned and that you would like details of this suggested operation.

I obtained the following information: In Denver, through city ordinance, licensing responsibility for commercial foster homes and day care facilities for children is the legal responsibility of the Denver Department of Health and Hospitals, Maternal and Child Health Division. The Denver Department of Health and Hospitals will use the forms of the Board on Standards of Child Care, based on investigation in accordance with standards that have been developed by the Board on Standards of Child Care. This has been ascertained through correspondence directed to Miss Charline Birkins, Director of the Denver Department of Welfare, by Guy R. Justis, Director of the Colorado Department of Public Welfare. Miss Birkins has cleared this with Mr. William Schaff, Deputy Manager, Department of Health and Hospitals.

On receipt of an application or request for renewal license of a Denver facility, a referral will be made by the Coordinator to the Maternal and Child Health Division of the Denver Department of Health and Hospitals. The Maternal and Child Health Division gives each new applicant a Board on Standards application blank. The Maternal and Child Health Division has been provided with application forms.

Investigations of commercial foster homes and day care foster homes are made under the supervision of Dr. Ruth Raattama. Nurseries, pre schools, and kindergartens are inspected by Dr. Raattama. A team approach with the sanitarian is used when possible. Inspections are made with or without an appointment, depending on the purpose of the contact.

On completion of the investigation, using the Board on Standards of Child Care investigation reports, the Division of Maternal and Child Health will transmit the investigation on Board on Standards forms, the application on Board on Standards forms, original reference material and original medical material to the Coordinator who will then submit them to the Board on Standards of Child Care for approval or denial of license, as the case may be.

B. Contacts Between Coordinator and County Welfare Departments

The district child welfare field supervisors, who carry responsibility for supervision of county child welfare programs, are in the State office once a month for staff meeting.

At each staff meeting the Coordinator has been invited to bring up any plans, additional requests for services, and/or any problems that may have arisen. While the district child welfare field supervisors are in the office, there is freedom of access for consultation with the coordinator.

There has been direct contact with county directors, county casework supervisors, and county caseworkers doing investigations, whenever problems or questions have arisen relative to investigations. Such contacts are established on basis of need.

C. Follow-up of Operators of Child Care Facilities Operating Without a License

The local county welfare departments have been requested and have assumed responsibility for checking local newspapers for advertisements for child care.

If only the telephone number is given, a member of the county welfare staff telephones the given number and obtains the name and address of the operator. This information is transmitted to the coordinator of the Board on Standards of Child Care. After the coordinator ascertains that this operator does not have a current license, a letter, standards, application form, and medical form will be sent to the operator by the coordinator. The coordinator will make a quarterly check on this correspondence; if the operator has not complied, a follow-up letter will be written to the operator.

D. Offer of Mr. Van Portfliet for Newspapers to the Board

Since an orderly arrangement has been established with the county welfare department for checking local newspapers for operators who advertise and may or may not be licensed, it would seem that a review of all state newspapers in the Board on Standards of Child Care office would be a duplication of service as well as an inefficient use of an already crowded time schedule of coordinator and secretary.

E. and G. Relationship to and Communication Between Departments

When the Department of Public Welfare was asked to coordinate the licensing program of the Board on Standards of Child Care, the Director of the department, Guy R. Justis, felt that the directors of the other departments that had any responsibility in the licensing area should be contacted and the individual or individuals on his staff designated who would cooperate with the coordinator of the Board on Standards in the Welfare Department in carrying out licensing responsibilities. Therefore, Dr. Hansford suggested Dr. Black; Dr. Cleere suggested Dr. Akers; and Dr. Galvin suggested Mr. Mylton Kennedy.

Department of Education. It is planned that this department review questionable teacher training credits submitted to the Board on Standards of Child Care; also their library will be used when indicated.

Department of Health. Dr. Elwyn N. Akers, Chief, Maternal and Child Health Section, State Department of Public Health, has been appointed coordinator for the Health Department. Dr. Akers receives lists of all weekly referrals of group care facilities made to the county welfare departments to implement, wherever possible, team visits by the local health department representative and the local child welfare worker. Telephone and individual consultation is used as needed. Mr. Orlen J. Wiemann, Chief of the Food and Drug Section, is also available when duties have been delegated to him by Dr. Akers.

Because of the direct involvement of the Department of Health in investigations and as this is in their area of competency, it seems advisable that Dr. Akers or his representative should be present at the Board on Standards meetings.

Department of Institutions. The plan is to confer with the Department of Institutions as need might arise around any of the foster homes being licensed for the State Children's Home; also, to confer on the day care center being established at Fort Logan for children of mothers who are receiving outpatient treatment.

Industrial Commission. A sound relationship has long been established between the Board on Standards and the Industrial Commission, so that no new working relationship needed to be worked through. As previously, referrals for services have been made to Mr. Art Becker with a follow-up letter. Direct consultation has been made available as the need arises.

Welfare Department. Coordinator is an employee of the Colorado State Department of Public Welfare assigned to function as coordinator for the Board on Standards. A minimum weekly conference is held with Marie C. Smith, Director of the Division of Child Welfare, on Friday mornings, to implement through county welfare department staffs services needed by the Board on Standards to fulfill licensing investigatory requirements. Referral lists sent to county welfare departments weekly carry the joint signatures of the Director of Child Welfare and the coordinator of the Board on Standards to assure legality and maintain already established lines of administrative communication. Communication is also maintained at all levels of operation as indicated in Section B on contacts between the coordinator and the State and county welfare departments. As with the Health Department, should questions arise in this area of competency, it would seem wise to have the Director of Child Welfare or a representative appointed by the director present at the Board on Standards meetings.

F. Coordinator

1. Duties to the Board on Standards:

a. To maintain orderly office management and provide services as desired by operators and/or clientele on a day by day basis.

b. To review and evaluate on the basis of standards established by the Board on Standards investigations made for licensing prior to meetings of Board on Standards.

c. To bring to the Board on Standards material for licensing calling particular attention to questionable reports that need intensive and individualized consideration by the board.

d. Report to the board any questions or trends that seem to be developing that may call for the board's consideration of revision of present standards and/or different use of administrative jurisdiction of the Board on Standards of Child Care.

e. Other functions to be determined as requested by the board.

2. Duties to the Welfare Department:

a. As an employee of the Colorado Department of Public Welfare, all functioning must be done within the framework of the department's personnel regulations and administrative lines of procedure.

b. The functions of coordinator were placed in the position of senior child welfare consultant because the duties anticipated for this work seemed to fall in this class.

The basic duties of the Senior Child Welfare Consultant class are to consult with county welfare departments, institutions, public and private agencies, and community organizations to assist in the development of a specialized phase of the child welfare program such as foster care of children, group care of children, and other services for children; reviews available local facilities of children's services and assists in the planning, selection and development of new services; advises local groups regarding resources of children's services and the adaptation of their use in local situations; participates in the training workshops for county personnel to further the development of the special children's welfare programs.

It is apparent from the foregoing job description that the duties of the coordinator in the many facets of licensing are predominantly found in this job description. Some of her time is spent in the reporting to the administrative Board on Standards on such functions as have been described above.

APPENDIX C

I. Facilities Licensed

California: all persons, associations and corporations must be licensed and inspected by the state department of social welfare (or an approved inspection service) in order to maintain or conduct any institution, boarding home, day nursery, or any other place for the reception of, or care of, children under sixteen years of age. (Hospitals and institutions for the care of handicapped children are excluded, but they must be licensed under the Health and Safety Code.)

Hawaii: all child caring institutions, foster boarding homes, child placing organizations, day care centers, and private schools shall be licensed by the department of social services, or the department of public institutions, or both.

Illinois: all child care facilities, child caring institutions, child welfare agencies, day care centers, group care homes, and foster family homes must be licensed by the department of public welfare. (State institutions, agencies operating under a mental health code license, juvenile detention homes, nursing homes, boarding homes primarily for education, kindergartens, or nursery schools under a board of education, and homes in which children are placed by a court of record are exempt from being licensed by the department of public welfare.)

Michigan: any agency or institution having as one of its functions the receiving of minor children for care, maintenance, training or supervision, or the receiving of minor children for placement in a family home with a view toward adoption or other foster home care shall be licensed by the department of social welfare. (Governmental units are exempt from these provisions.)

Minnesota: foster care facilities that provide care, food, lodging, training, education, supervision, or treatment, and private agencies that care for and place children are licensed by the public welfare commission. Boarding homes for infants and children's camps are licensed by the state board of health. (Schools in which the primary purpose is instruction rather than care and supervision are exempt from these provisions.)

Missouri: Boarding homes for children, day care homes or nurseries, and child placement agencies are licensed by the division of welfare. (Institutions and agencies operated by a governmental unit or a well-known religious order are exempt from the licensing provisions.)

North Carolina: all individuals, agencies, associations, or corporations that intend to care for and place dependent, neglected, abandoned, destitute, orphaned, or delinquent children must obtain a license from the state board of charities and public welfare. (Orphanages chartered by the state or operated by a religious or fraternal order shall be exempt from these licensing provisions.)

Ohio: any incorporated or unincorporated organizations which care for children, day care centers, and individuals who receive and care for children for compensation must be certified by the division of social administration. (Any agency or organization operated under authority of the department of education, a local board of education, or the divisions of mental hygiene are exempt from these provisions.)

Pennsylvania: Boarding houses for children, day care homes, and day care centers are licensed by the department of public welfare. Organized camps must have a certificate of registration from the department of health. (Facilities and institutions under the direct supervision of a court or the department need not be licensed.)

Rhode Island: Child placement agencies, adoption agencies, day nurseries, and boarding homes for children are licensed by the department of social welfare. (Institutions operated by a town, city, or the state, and institutions operated by a charitable organization and established by April 30, 1943 need not be licensed, but must comply with the rules and regulations of the department.)

Utah: Child placement agencies and day nurseries are licensed by the department of public welfare. (Day nurseries which are part of an educational institution are exempt.)

Washington: Day nurseries, child placing agencies, foster homes, children's institutions, and maternity homes are licensed by the department of public assistance. (Agencies operated by church organizations are exempt from licensing.)

Wisconsin: Child welfare agencies, foster homes, and day care centers must be licensed by the department of public welfare. (Educational institutions, public agencies, and maternity hospitals are exempt from licensing by the welfare department.)

II. Responsibilities Other than Licensing

California: 1) The bureau of child hygiene (department of public health) -- may investigate conditions affecting the health of children in the state. The bureau seems to have no enforcing power.

2) The department of public health may inspect facilities and their compliance with health rules and regulations. It has full authority to enforce its rules and regulations and enjoin and abate nurseries. No specific mention is made of child care facilities, however.

3) The superintendent of public instructions is to visit schools and inquire into their condition, and to visit the orphanages and examine their course of instruction. There seems to be no statutory mention of child care facilities as such.

4) The state fire marshall establishes minimum standards for the prevention of fire and the protection of life and property. These standards are enforced either by the local fire departments or by the state fire marshall. The standards apply to all places where people may congregate and therefore apply to child care facilities. All children's homes, nurseries, or institutions . . . must be equipped with fire alarm systems or automatic sprinkler systems.

5) The department of public health shall cooperate with the hospitals or other institutions in which a (physically handicapped) child is placed, maintain a strict supervision over the handicapped children, shall cause them to be visited when advisable, and shall cause records to be kept.

Hawaii: The department of social service, after consultation with the department of health, the department of public institutions, and the fire marshall, shall make, prescribe, and publish such rules and regulations and minimum standards as shall be deemed necessary to protect the best interests of minor children. These rules and regulations when approved by the governor shall have the force and effect of law and shall be administered by the department of social welfare.

Illinois: The department of public health has power to inspect sanitary and water supply conditions of any facilities in the state. There are no specific statutory references regarding authority and responsibility of the state fire marshall or the department of education with respect to licensed child welfare agencies.

Michigan: 1) The superintendent of public instruction is to prescribe requirements with regard to the educational program, the qualifications of teachers, the conditions under which teachers are employed, and necessary equipment and special services.

2) The department of health shall visit licensees and advise them on matters affecting the health of children and inspect the sanitation of buildings.

3) The state fire marshall shall inspect buildings and determine whether construction complies with the provisions of the act to regulate construction, reconstruction, and remodeling of buildings.

Minnesota: The state board of health shall inspect all licensed child welfare agencies. It has authority to make and enforce regulations with respect to water supply, sewage, and refuse disposal.

North Carolina: 1) The board of public welfare has the power and duty to inspect and make reports on private orphanages, institutions, maternity homes, and persons or organizations receiving and placing children and to require such institutions to submit annual reports and information as the state board may determine.

2) The state board of charities and public welfare shall investigate applicants for licenses to determine the purpose, character, nature, methods, and assets of the proposed business or organization.

Ohio: The department of industrial relations shall inspect all schoolhouses, children's homes, and other buildings used for the assemblage or betterment of people in the state, with reference to precautions for the prevention of fires, provisions of fire escapes, exits, emergency exits, hallways, and air space, and such other matters which relate to the health and safety of the occupying or assembled in such premises.

Oregon: 1) The state fire marshall must certify that the institution is in compliance with all applicable laws, lawful ordinances, rules and regulations relating to safety from fires. The fire marshall must conduct an inspection for the purpose of such certification.

2) The state board of health shall inspect sanitation, plumbing, number of children per room, fire protection, water supplies, building construction and maintenance, lighting and ventilation, garbage and refuse disposal, insect and rodent control, and cleanliness of premises, buildings, furniture, bedding, and linens. Approval is a prerequisite to issuance or renewal of a license.

3) The state board of education to assist in the publication of rules and regulations to implement standards.

Pennsylvania: 1) The department of public welfare shall adopt rules and regulations for the proper maintenance, operation, and conduct of boarding houses for children, and the enforcement thereof.

2) There is no specific mention in the statutes concerning the responsibilities of other agencies regarding water, sanitation, fire protection, or education.

Rhode Island: 1) The state fire marshall (and the chief of the local fire department) shall inspect and approve all facilities prior to the issuance and/or renewal of a license. The local fire chief is to conduct semi-annual inspections of such facilities and report to the state fire marshall.

2) The city building inspector shall inspect and approve all facilities prior to issuance and/or renewal of a license.

3) The city or town sanitary inspector shall inspect and approve all facilities prior to issuance and/or renewal of a license.

Utah: 1) The department of health shall assist in setting out standards to assure the health of the children in child welfare agencies. It may also visit and inspect the facilities to obtain compliance with the prescribed standards.

2) The department of education has the same responsibility as the department of health, except that it is concerned with the education rather than the health of the children.

Washington: 1) The fire marshall shall adopt, promulgate and enforce such rules and regulations as may be designed to protect the occupants from fire hazard, and he shall make or cause to be made such inspections as he deems necessary. He must issue a certificate of approval which is a prerequisite to issuance or renewal of a license.

2) The state board of health shall adopt, promulgate and enforce rules and regulations as deemed necessary to promote and protect the health of children. It shall also conduct such inspections and investigations as it deems necessary. It must issue a certificate of approval, which is a prerequisite to issuance or renewal of a license.

Wisconsin: 1) The state department of public welfare shall review, and the industrial commission shall approve, all plans for new buildings or extensive remodeling of existing buildings.

2) The state laboratory of hygiene (or a laboratory certified by the state board of health) shall test samples of water obtained from private wells.

3) The chief of the fire department in every city, village, or town is constituted a deputy of the industrial commission, with duty to inspect all buildings, premises, and public thoroughfares for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of any law or ordinance relating to fire hazards or to the prevention of fires.

4) The department of public welfare shall prescribe rules establishing minimum requirements for the issuance of licenses and establishing standards. The department shall consult the industrial commission, the department of public instruction, and the state board of health before prescribing these rules.

III. Additional Information on Nursery Schools and Kindergartens

California: Kindergartens are established by the school district board and are not directly concerned with the health or welfare departments.

Hawaii: No specific statutory instructions.

Illinois: Nurseries and kindergartens are included in the definition of day care centers.

Michigan: No specific statutory instructions.

Minnesota: Nursery schools are included under foster care facilities.

Missouri: Kindergartens are part of the public school system. Nurseries are licensed only by the division of public welfare.

North Carolina: No specific statutory instructions.

Ohio: No specific statutory instructions.

Oregon: No specific statutory instructions.

Pennsylvania: Kindergartens are part of the public school system. There are no specific statutory instructions relating to nursery schools.

Rhode Island: Day nurseries are licensed by the department of social welfare. No specific statutory reference to kindergartens.

Utah: No specific statutory instructions.

Washington: Kindergartens are part of the public school system. There is no statutory provision for licensing either kindergartens or nursery schools.

Wisconsin: No specific statutory instructions.

IV. Co-Operation Among Agencies (not already covered).

A. Relationship between the licensing agency and other agencies.

Minnesota: 1) The commissioner of public welfare and the officers and authorized agents of the state board of health and local boards of health may co-operate in inspection of foster homes.

2) The commissioner of public welfare shall co-operate with juvenile courts and all reputable child helping agencies of a public or private character.

3) The commissioner may place a child in any state institution, private child-caring agency, or foster boarding home.

Oregon: 1) The state board of health, the department of education, and the state fire marshall shall co-operate in making and publishing rules and regulations implementing the prescribed standards.

Washington: The statute provides for co-operation between the department of public assistance, the state fire marshall and the state board of health for regulation, inspection, and approval of facilities.

Wisconsin: The state department of public welfare shall consult with the industrial commission, the department of public instruction, and the state board of health before prescribing rules establishing minimum requirements for the issuance of licenses and standards for the operation of the child welfare agencies.

B. State-local relationships.

California: 1) The local authorities of any county, city, or city and county may establish rules and regulations prescribing standards of sanitation, health and hygiene for institutions, boarding homes, day nurseries or other places for the reception or care of children under sixteen, not in conflict with state law, and require a local health permit.

2) The state department of social welfare may inspect, examine and license . . . or any county or city may establish, and the state department of social welfare may accredit and approve, a county or city inspection service . . . if any county or city establishes an inspection service . . . the inspection may be made by a health department having at least one regularly licensed physician or a qualified social service department.

Michigan: The county department of social welfare is to assist in the development of sound programs and standards of child welfare.

Minnesota: The public child welfare program is to be administered by the county welfare boards.

Missouri: The state welfare division may designate to act for it with full authority of law, any instrumentality of any political subdivision of the state or any child placing agency deemed by the advisor to be competent, to investigate and inspect licensees and applicants for a license.

Oregon: The state public welfare commission may, in its discretion, require any county public welfare department to provide foster care and other services for any child that has been surrendered to the state public welfare commission by order of court.

Utah: Under the statute, the county department of public welfare is a branch office of the state department of public welfare.

Washington: The statute provides that city, county, or district health departments which employ a full-time health officer may be authorized by the state board of health to exercise the authority of the state department of health with respect to enforcement of the rules and regulations of the state board of health.

Wisconsin: The county welfare agencies have authority to license foster homes.

V. Delineation of Standards

California: No detailed instructions. The statutes provide that the department of welfare shall make the necessary rules and regulations to carry out the purposes of the act. (Such language has not been declared an unconstitutional delegation of legislative authority.)

Hawaii: The statutes say only that the department of social services may make rules and regulations that relate to the standards of conditions, management, and competence of the various institutions that are to be licensed.

Illinois: The department of public welfare may make regulations pertaining to:

- 1) The operation and conduct of the facility and responsibility it assumes for child care;
- 2) The character, suitability and qualifications of the applicant and other persons directly responsible for the care and welfare of the children;
- 3) The general financial ability and competence of the applicant to provide necessary care for children and to maintain prescribed standards;
- 4) The number of individuals or staff required to insure adequate supervision and care;

5) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate fire prevention and health standards in conformance with state laws and municipal codes to provide for the physical comfort, care, and well-being of children;

6) Provisions for food, clothing, educational opportunities, program, equipment, and individual supplies to assure the healthy physical, mental, or spiritual development of children served:

7) The provision to safeguard the legal rights of children served;

8) Maintenance of records pertaining to the admission, progress, health, or discharge of children;

9) The filing of reports with the department;

10) The discipline of children; and

11) The protection or fostering of the particular religious faiths of the children served.

Michigan: The department of social welfare shall fix the minimum standards of care and supervision, personnel, food, sanitation, and fire protection.

Minnesota: Rules and regulations are to be adopted by the public welfare commission so that the interests and well-being of the children are protected. The agencies must be reputable, trustworthy, and entitled to confidence. The state board of health may adopt such regulations and standards as it determines necessary to protect the health and safety of children.

Missouri: The division of welfare shall fix the standards of service and care and promulgate rules and regulations. The division shall inquire into the good character and interest of the applicant and determine that the applicant is qualified and equipped to render care or service conducive to welfare of children.

North Carolina: The state board of charities and public welfare shall investigate the purpose, character, nature, methods, and assets of the applicant before issuing a permit.

Ohio: The division of social administration has authority to pass annually on the fitness of the licensed facilities regarding such matters as the filing of reports, the management and competency, the adequacy of care, the system of instruction and such other facts as the division may require.

Oregon: Generally, the rules and regulations shall be such as to determine or assure:

- 1) The good character and intentions of the applicant;
- 2) The present and prospective need of their service;
- 3) The employment of capable, trained, or experienced workers;
- 4) Sufficient financial backing to insure effective work;
- 5) Probability of permanence; and
- 6) Methods used and disposition made of children served will be in their best interests and that of society.

Pennsylvania: The department of public welfare shall adopt rules and regulations for the maintenance, operation, and conduct of the facilities to be licensed.

Rhode Island: The state department of welfare shall promulgate rules and regulations. All facilities licensed must be approved by the fire, sanitary, and building authorities. The licensee must prove financial ability and provide for the medical care of its charges.

Utah: The department of welfare may make rules and regulations which incorporate and provide standards for the condition, management, and competency to adequately care for the children committed to the agency.

Washington: The department of public assistance shall promulgate standards:

- 1) For the protection of the health, safety, physical, moral, and mental well-being of the children;
- 2) To assure that the applicant is of good character;
- 3) For the employment of an adequate number of capable persons qualified by education or experience to render the type of care for which applicant is licensed;
- 4) To insure the adequate physical facilities for the purpose; and
- 5) To insure that the applicant carries an adequate liability and property insurance policy in such amount as may be determined by the director of public assistance.

Wisconsin: The department of public welfare shall prescribe rules to protect and promote the health, safety, and welfare of the children in the care of all licensees, and shall consult with the industrial commission, the department of public instruction, and the state board of health before prescribing these rules.

VI. Advisory Committees.

Hawaii: The statute provides for a board of social services which sits as an advisory board to the director, but not specifically for child care facilities.

Michigan: The statute provides for a child welfare commission composed of three members appointed by the governor for two-year terms. Such members are to be selected from ". . . recognized, or grouped bodies formed for the study of child welfare and the promotion of education, hygiene, health, good morals, and physical and mental welfare of children . . ." In such selection, preference is to be given to members of organizations that have statewide scope and object of work. The commission is to study and investigate ". . . the social and economic environments of children, the remedies that should be applied for the amelioration and improvement of such conditions." It is to report at least thirty days prior to the assembling of each successive legislature and present a resumé of its work and recommendations for legislation.

Minnesota: The statute provides for an advisory council to advise the board of health in the administration of children's camps; selection and qualification of members is not indicated.

Missouri: The division of welfare has power to appoint, when it deems necessary, advisory committees ". . . to provide professional or technical consultation in respect to welfare problems and welfare administration," and to consult and advise the division in respect to problems and policies incident to the administration of the particular function.

Pennsylvania: The advisory committee for children and youth is composed of the commissioner in the department of public welfare directing child welfare plus not less than three nor more than nine members appointed by the governor. Their qualifications and numbers are to be determined by the governor upon recommendation of the state board of public welfare, with due regard for representation of the professional and lay group concerned with the field of interest served by the program. The committee members are to serve for overlapping terms of six years, with one-third of the original board appointed to each of two, four, and six year terms. Such committee is to advise the department of public welfare with respect to licensure of institutions and agencies, to conduct public hearings as may be required or deemed advisable or necessary, and to promote better public understanding of the programs and objectives of the department. It shall also make recommendations to the department.

Rhode Island: The advisory council for the department of social welfare is to be composed of five qualified electors of the state appointed by the governor for five year staggered terms. Its duties are generally to advise the director of the department -- no specific reference to its functions with respect to licensing.

Washington: The advisory committee is to be composed of seven members selected insofar as possible on the basis of giving both geographic and occupational representation throughout the state, and on their known experience or interest. They are to be appointed by the governor for six year staggered terms, and are to serve in an advisory capacity, recommend changes deemed advisable, and prepare and publish mimeographed reports of their recommendations.

VII. Licenses

California: Licenses are to be issued for 12 month periods. They may be revoked for cause after a hearing conducted in accordance with the procedures set out in the administrative code. There is no specific mention of suspension, and refusal to grant a license seems to be one of the powers left to administrative discretion -- as does the setting of initial requirements. There is no statutory provision for fees.

Hawaii: A. Length of time for which issued --

"Certificates of Approval" are issued by the department of social services for one year periods (may be renewed) for child caring institutions, foster boarding homes, child placing organizations, and day care centers. Permits for operation of a private school are given by the department of public instruction. There is no statutory reference to time limitations on these permits.

B. Provisions for Probationary License --

The department of social services may issue a temporary permit for day care centers for a six-month period to any applicant who is temporarily unable to meet the minimum standards established by the department. Renewal is left to the discretion of the department.

C. Fees -- no provision.

D. Revocation and suspension --

Licenses and permits may be suspended and/or revoked by the department after due notice and hearing. Statute also provides that upon determination by the department that conditions exist which constitute an imminent danger to the health, welfare, or safety of the children, a license or temporary permit may be immediately suspended pending a hearing by the department.

E. Initial Requirements --

The institution must meet the standards of conditions, management, and competence set by the department.

Illinois: A. Length of time issued - one year.

Probationary licenses may be issued for a period not to exceed six months to allow a newly-established facility reasonable time to become eligible for a field license; such a license may not be granted to any foster family home or group care home.

B. Fees -- no provision.

C. Revocation and suspension --

The department may revoke or refuse to renew a license if it finds that the licensee:

1) Consistently fails to maintain the standards prescribed by the department;

2) Substantially violates any of the provisions of the license issued;

3) Furnishes or makes any misleading or any false report;

4) Refuses to submit to the department any reports or refuses to make available to the department any records required in investigations;

5) Fails or refuses to admit authorized representatives of the department at any reasonable time for the purpose of investigation;

6) Fails or refuses to submit to any investigation;

7) Fails to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care;

8) Refuses to display its license; or

9) Fails to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provisions for personal care, medical services, clothing, education, and other essentials in the proper care, rearing, and training of children. (A hearing is held prior to revocation if requested by the licensee.)

D. Initial requirements -- prescribed by the department.

Michigan: A. Length of time for which issued --

One year unless same revoked.

B. Probationary license --

The probationary license may be issued to any agency or foster home whose services are needed but which is temporarily unable to conform to all rules and regulations. Such license may not be in force for more than three years.

C. Fees -- no provisions.

D. Revocation and suspension --

The department may revoke or refuse to renew a license if the licensee shall have willfully and substantially violated any of the provisions of the statute or the rules and regulations thereunder. The action is summary, but the licensee must be given notice and opportunity for a hearing.

E. Initial requirements -- need for the facility; financial stability, good character, intent of the applicant, and equipment and services conducive to the welfare of children.

Minnesota: A. Length of the time for which issued -- one year.

B. Fees -- none.

C. Revocation and suspension -- The license of a foster care facility or a private agency may be revoked for
1) Violation of any of the provisions of the statutes in a manner disclosing moral turpitude or unfitness to maintain such a facility.
2) Evidence that the facility is conducted by a person of ill-repute or who has a bad moral character. A hearing must be held before revocation.

As to the children's camps -- the board of health may refuse to grant a license if it determines that the health and safety of persons using the camp will not be properly safeguarded. It may revoke the permit for failure to comply with prescribed regulations. Such revocation is summary (although notice and reasonable time given to correct deficiency).

D. Initial Requirements --

Facility must conform to the rules governing its operation and give the children the services it purports to give.

Children's camps -- set by board of health.

Missouri: The license is issued for one year. It may be revoked for failure to obey any of the provisions of the licensing statute. Such revocation is summary.

Initial Requirements --

- 1) Good character and intent of the applicant; and
- 2) Applicant must be qualified and equipped to render care and service conducive to the welfare of children.

North Carolina: License issued for one year. It may be revoked when in the opinion of the board of public welfare, the good of the children is not being properly served.

Initial Requirements --

- and
- 1) Service must be needed and be for the public good;
 - 2) Must be conducted by reputable persons or organizations.

Ohio: A. Length of time for which issued -- one year

B. Probationary permit --

This permit may be issued for a period of less than one year to operate until minimum requirements have been met.

C. Fees -- no provision.

D. Revocation and suspension --

The statute only says that such certificate may be revoked for violation of the statute or any regulation thereunder.

E. Initial requirements --

These requirements are determined by the division of social administration.

Oregon: A. Length of time for which issued -- one year (for day nurseries, the initial license expires on the following June 30th)

B. Provision for probationary licenses --

For group care homes, a temporary certificate may be issued to applicants who are not able to comply immediately with the standards set by the statute and the rules and regulations set by the board. Such certificate may not be issued for more than one year and may not be renewed.

C. Fees --

1) Day nurseries -- if capacity is not greater than ten children, the fee is fifteen dollars. If the capacity is greater than ten children, the fee is \$35.

D. Revocation and suspension --

1) Day nurseries -- license may be revoked for failure to comply with the rules and regulations of the board of health. Opportunity to be heard must be given prior to revocation.

2) Group care homes -- license may be revoked in summary action for operating in violation of the statute or rules and regulations pursuant thereto.

3) Child caring agencies -- license may be revoked for failure to meet the requirements of the statute or for the finding of any abuses, deterioration, or deficiencies not corrected within a reasonable time. Action is summary.

4) Foster homes -- certificate may be revoked by order of the public welfare commission for failure to comply with the statute or rules and regulations thereunder.

E. Initial requirements --

1) Day nursery -- certificate of compliance with fire and safety requirements.

2) Group care homes -- provide an adequate number of capable persons qualified by education or experience to render the type of care for which the applicant seeks a certificate .

3) Have adequate physical facilities.

4) Provide food that is adequate, wholesome, and prepared and served in a sanitary manner.

5) Make satisfactory arrangements for medical supervision and care with a physician (unless the home is conducted exclusively by and for those who rely for healing upon treatment by prayer or spiritual means).

6) Practices and policies must provide adequately for the protection of health, safety, physical, moral, and mental well-being of the children.

Pennsylvania: A. Length of time for which issued -- one year.

B. Fees -- no provision for fees for license for boarding homes or day care centers, but children's camps must pay \$10 annually for a certificate of registration.

C. Revocation and suspension --

1) Boarding homes -- license may be revoked for violation of any of the provisions of the licensing statute or any rules and regulations thereunder.

2) Day care -- a finding by the department of non-conformity to the regulations of the department, or failure to maintain records, or that children are subjected to mistreatment or abuse is cause for revocation of license. Action is summary.

maintain records, or that children are subject to mistreatment or abuse is cause for revocation of license. Action is summary.

3) Camps -- no provisions.

D. Initial requirements --

1) Boarding houses -- applicants must be proper persons and facility must be fit and suitable for the purpose. All rules and regulations must be complied with.

2) Day care centers -- applicants and facility must meet the requirements of the statute and the rules and regulations thereunder.

Rhode Island: A. Length of time for which issued --

1) Child care and placement agencies -- one year.

2) Adoption agencies -- one year.

3) Day nurseries and boarding homes -- two years.

B. Revocation and suspension --

1) Child care and placement agencies -- the license may be revoked for violation of any of the provisions of the chapter, or when, in the opinion of the director, the licensee is not conducting its work with due regard for the best interests of the children. Action is summary.

2) Adoption agencies -- same.

3) Day nurseries and boarding homes -- a refusal to permit reasonable inspection and examination shall constitute a valid ground for revocation. A hearing must be given on request of licensee (after due notice).

E. Initial requirements --

1) Child care and placement agencies -- director of social welfare must be satisfied that the agency is competent and that the facilities are adequate to care for the children.

2) Adoption agencies -- same.

3) Day nurseries and boarding homes -- must be approved by the state fire marshall and by sanitary and building inspectors. The department must also approve of the financial ability of the home to perform any contracts it may make with its inmates for their care and maintenance, and the provisions for medical care of the inmates.

Utah: A. Length of time for which issued --

1) Child placement agencies -- one year.

B. Fees -- none indicated.

C. Revocation and suspension --

1) Child placement agencies -- license may be revoked upon determination that the agency is not competent and/or does not have adequate facilities, or that requirements covering the management of such agencies are not complied with.

2) Day nurseries -- license may be revoked for failure to comply with standards.

D. Initial requirements --

1) Child placement agencies -- facilities must be "adequate" and operation must be "competent."

2) Day nurseries -- to be established by the department of public welfare.

VIII. Appeal Procedure

California: The appeal may be made to the department of social welfare through provisions provided by the administrative code; judicial review may be had if the agency decision is one which involves a judicial function or the appellee's constitutional or legal rights.

Hawaii: Appeal procedures are not specifically mentioned in the statutes but judicial review would be had in the circuit courts.

Illinois: Appeal may be made to the department of public welfare within 30 days of decision, and judicial review may be had in the circuit courts.

Michigan: An appeal within 10 days may lie to the circuit court by any person aggrieved by the decision of the department of social welfare. The court shall determine questions of law and fact.

Minnesota: An appeal within 10 days may be to the district court of any licensee to a decision of the commissioner of public welfare. Decision of the district may be appealed to the supreme court.

Missouri: Appeals may be made within 30 days to the division of welfare; judicial review may be had of any final administrative decision.

North Carolina: No specific statutory instructions.

Ohio: No specific statutory instructions.

Oregon: The appeal of an administrative decision lies with the circuit court.

Pennsylvania: No specific statutory instruction.

Rhode Island: No specific statutory instruction.

Utah: No specific statutory instruction.

Washington: An appeal within 15 days may be taken to the department of public assistance; judicial review may be had in the proper superior court.

Wisconsin: Any person aggrieved by the departments refusal or failure to issue or renew a license or by its revocation of a license has the right to an administrative hearing. Judicial review of the department's decision may be had or provided by law.

APPENDIX D

By Laws of The Colorado Board of Standards of Child Care

(Appointed pursuant to Section Three (3) of Chapter 196, Session Laws of Colorado, 1943)

ARTICLE I

Officers of the Board

Section 1. The officers of the Board shall be the Chairman, Vice Chairman, and Secretary, and shall be elected by the board from its members at the next regular meeting of the board following the appointment of new members to the board to fill vacancies caused by the expiration of terms of office on July 27th of each year.

Section 2. All elections shall be by ballot.

Section 3. Five board members shall constitute a quorum. No business may be transacted by the board unless a quorum is present.

ARTICLE II

Duties of Officers

Section 1. The Chairman shall preside at all meetings of the board, appoint special committees, be ex officio member of all committees, and perform such other duties as parliamentary custom requires. The Chairman of the board shall be the chief executive officer and shall have general supervision over it.

Section 2. The vice chairman shall act in the absence of the chairman.

Section 3. The secretary of the board shall, with the assistance of the employee or employees of the State of Colorado, to be designated by the board, keep the records and conduct the correspondence of the board, and shall be the custodian of all books, documents, furniture, and other property belonging to the board. He shall give proper and timely notice in writing, by mail, to each member of the board, of every regular and special meeting and shall perform such other duties as this board may from time to time direct.

ARTICLE III

Committees

Section 1. The following standing committees may be appointed by the chairman with the approval of the board and the duties and functions thereof prescribed by the board.

a. Administrative Committee

Section 2. Special committees shall be authorized from time to time by the board and appointed by the chairman.

ARTICLE IV

Meetings

Section 1. The board shall meet regularly at least once each calendar month. The place, date, and hour of meeting shall be set by the secretary with approval of the chairman.

Section 2. Special meetings may be called by the chairman or the secretary at such time and place as shall be designated in the notice thereof, or shall be called whenever requested in writing by three members of the board.

ARTICLE V

Order of Business

Section 1. The suggested order of business at all meetings shall be as follows:

1. Roll Call
2. Approval of minutes of last regular or special meeting
3. Announcements
4. Report of secretary
5. Reports of committees
6. Unfinished business
7. New and miscellaneous business
8. Elections or appointments
9. Adjournments

ARTICLE VI

Rules of Order

Section 1. The parliamentary procedure of the board when in session shall be governed so far as practicable by Robert's Rules of Order.

ARTICLE VII

Adoption and Amendment of Standards and Rules and Regulations

Section 1. Standards, rules, and regulations as provided for in Chapter 196 of the Session Laws of Colorado, 1943, may be adopted by the board by a majority vote at any meeting of the board.

Section 2. Such standards or rules and regulations may be amended by a majority vote at any meeting of the board, providing that such amendment or amendments shall have been introduced at a previous meeting of the board and notice of such amendment or amendments shall have been given in the call for the meeting.

ARTICLE VIII

Licenses, Complaints and Hearings

Section 1. Applications for licenses and for renewal thereof shall be in the form prescribed by the board, and licenses shall be signed by the chairman and secretary, or in their absence, by any two members of the board.

Section 2. Licenses may be refused to applicants not complying with the requirements of law or of the standards or rules and regulations prescribed by the board. Licenses may be revoked or suspended for like reasons.

Section 3. In the event the Colorado Board of Standards of Child Care, in its discretion, declines to grant or renew a license, written notice of such declination shall be given to the applicant, stating the time and place at which hearing will be had by the Colorado Board of Standards of Child Care on its own motion of the alleged failure of a licensee, or certificate holder to comply with the law or with the standards or rules and regulations prescribed by the Board of Standards, or if protest or complaint be made against the issuing or retaining of any such license or certificate, the applicant, licensee, or certificate holder shall be furnished with a copy of such complaint or protest and written notice shall be given to such applicant, licensee, or certificate holder of the time and place of hearing in connection therewith. Copies of such notice, complaint or protest shall be served on such applicant, licensee, or certificate holder by the secretary of the Colorado Board of Standards of Child Care, by ordinary mail addressed to the applicant, licensee, or certificate holder at least ten (10) days in advance of the date of hearing, at which time and place the applicant, licensee, or certificate holder will be given full opportunity to show cause why the license should not be refused, revoked, or suspended, and to present any and all evidence upon his behalf. Notice of such hearing shall be given to any and all persons who may have protested or complained against the issuance or retention of such license or certificate, and at said hearing such person or persons may be present and present any and all evidence upon his behalf.

ARTICLE IX

Section 1. These by-laws may be amended at any meeting of the board by the affirmative vote of five members of the board, providing the amendment was submitted to the board in writing, read at a previous meeting, and notice of such proposed amendment given in the call for the meeting.