

## TO BE RESCINDED

5122-35-08

**Denial or revocation of certification.**

- (A) Whenever an AAA proposes to deny or revoke the certification of an adult foster home, the AAA shall send a written notice of the proposed action to the applicant or operator whose certification is being denied or revoked and send a copy of the notice to ODMH. The AAA shall deliver the notice by certified mail, return receipt requested. The notice shall include the following:
- (1) The name, address, and telephone number of the AAA proposing the revocation or denial of certification;
  - (2) A statement indicating the AAA's decision to deny or revoke certification;
  - (3) A statement indicating the reasons for the proposed denial or revocation of certification;
  - (4) A reference to the administrative rule upon which the AAA's decision to deny or revoke the certification is based;
  - (5) A statement indicating that the applicant or operator may request a review of the proposed denial or revocation if the applicant or operator submits a written request for review to the AAA director within fifteen days of the date on which the AAA mailed the notice to the applicant or operator;
  - (6) A statement indicating that the applicant or operator may appear at the review hearing, may be represented in person or through an attorney, may present arguments against the proposed action in writing, and may present evidence and examine witnesses appearing for or against the applicant or operator;
  - (7) A statement that the rules governing applicant or operator requests for hearings are found in this rule; and,
  - (8) A copy of this rule.
- (B) An applicant or operator whose certification is proposed to be denied or revoked may request a review hearing of the proposed action. If an applicant makes such a request, the applicant shall do so in writing and shall address the director of the AAA proposing to deny or revoke the certification. The request will only be honored if the AAA receives the written request no later than the fifteenth business day following the date on which the notice from the AAA was mailed to the applicant or operator.

- (C) When an applicant or operator fails to request a review hearing, or the request is not timely received, the proposed action shall be implemented by the AAA.
- (D) If the request for review is received by the AAA within the stipulated period, the director of the AAA (or the director's designee) shall review the proposed action to deny or revoke certification no later than thirty days after receiving the request for a review hearing. The review procedure implemented by the AAA shall give the applicant or operator and/or the applicant's or operator's legal counsel an opportunity to appear before the AAA director (or the director's designee) and to present arguments against the proposed action.
- (E) The AAA director (or the director's designee) shall render a written decision adopting, rejecting, or modifying the proposed action and shall state the reasons for the decision. The AAA shall provide the decision by the AAA director (or the director's designee) to the applicant or operator no later than thirty days after the review hearing date.
- (F) An applicant or operator may appeal the decision by an AAA director (or the director's designee) by providing the director of ODMH with a written statement indicating why the applicant or operator believes the decision by the AAA director (or the director's designee) is inappropriate.
- (1) The applicant's or operator's written statement must be received by the director of ODMH no more than five days after the date the decision by the AAA director or the director's designee was rendered.
  - (2) The director of ODMH shall review the applicant's or operator's written statement and shall render a decision.
  - (3) The decision by the director of ODMH shall be binding.
- (G) The AAA shall notify the residents of an adult foster home and/or their sponsors if certification of the home is denied or revoked.
- (H) An applicant or operator whose certification is denied or revoked shall not be given an opportunity to apply for adult foster home certification for a period of at least two years after the denial or revocation took place, and then only when all violations have been corrected.
- (I) An AAA may refuse to certify any applicant that voluntarily surrendered its license or certification for any type of residential care facility, or that had its license or

certification revoked or denied by the responsible licensing or certifying agency.

- (J) An AAA shall refuse to certify any applicant that it knows has a history of abuse, neglect, or exploitation.

Effective: 01/01/2018

Five Year Review (FYR) Dates: 01/20/2017

CERTIFIED ELECTRONICALLY

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Certification

04/05/2017

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Date

Promulgated Under: 119.03  
Statutory Authority: 5119.34  
Rule Amplifies: 5119.34  
Prior Effective Dates: 2-1-1994 (Emer.), 5-3-1994, 4-26-1998, 7-13-2003,  
1-1-2008, 2/17/2012