

**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

**01. Department Criminal History and Background Check Clearance.** The provider, substitute caregivers, and all adults living in the home are required to complete a Department criminal history and background check and receive a clearance in compliance with IDAPA 16.05.06, "Criminal History and Background Checks." The resident is exempt from criminal history check requirements. (7-1-18)

**02. When Certification Can Be Granted.** Prior to certification being granted: (7-1-18)

**a.** The provider must have a completed criminal history check, including clearance; and (7-1-18)

**b.** Any other adult living in the home must have completed a self-declaration form, must be fingerprinted, and must not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-18)

**03. New Adults in the Home After Certification Is Granted.** A new adult who plans to live in the home must complete a self-declaration form, must be fingerprinted, and must not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," before moving into the home. Any adult who is a visitor in the home and leaves within thirty (30) days is not required to have a criminal history check but must not have unsupervised contact with the resident. (7-1-18)

**04. Minor Child Turns Eighteen.** A minor child turning eighteen (18) and living in the home must complete a self-declaration form, must be fingerprinted, and must not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," within thirty (30) days following the month of his eighteenth birthday. (4-11-06)

**05. Substitute Caregiver.** A substitute caregiver must complete a self-declaration form, be fingerprinted, and must not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," prior to any unsupervised contact with the resident. (4-11-06)

**06. Additional Criminal Convictions, Pending Investigations, or Charges.** Once criminal history clearances have been received, the provider must report to the Department any additional criminal convictions, pending investigation or charges for himself, any other adult living in the home or a substitute caregiver as described in Section 210 of these rules. (7-1-18)

**07. Renewal of Clearance.** Any adult identified in these rules who is required to clear a Department criminal history and background check must obtain a new clearance from the Department at least every five (5) years.

**113. DENIAL OF APPLICATION FOR CERTIFICATE.** The Department may deny the application for issuance of a certificate when conditions exist that endanger the health, safety, or welfare of any resident or when the home or provider is not in substantial compliance with these rules.

**01. Additional Causes for Denial.** Additional causes for denial of an application for a certificate include the following:

~~**01. False or Incomplete Information.**~~

~~**a.**~~ The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate;

~~**02. Convictions.**~~

~~**b.**~~ The applicant or provider has been convicted of fraud, gross negligence, abuse, assault, battery or exploitation;

~~**03. Other Criminal Offense.**~~

~~**c.**~~ The applicant or provider has been convicted of a criminal offense within the past five (5) years, other than a minor traffic violation or similar minor offense;

~~**04. Denial or Revocation of Health Care License.**~~

~~**d.**~~ The applicant or provider has been denied or has had revoked any child care or health facility license, residential care or assisted living facility license, or certified family home certificate;

~~**05. Operation Without a License.**~~

~~**e.**~~ The applicant or provider has been found to have operated a health facility, residential care or assisted living facility, or certified family home without a license or certificate;

~~**06. Court Ordered.**~~

~~**f.**~~ A court has ordered that the applicant or provider must not operate a health facility, residential care or assisted living facility, or certified family home;

~~**07. Registries or Exclusion List.**~~

~~**g.**~~ The applicant or provider is listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists; or

**~~08. Control or Influence.~~**

**~~h.~~** The applicant or provider is directly under the control or influence of any person who is described in Subsection 113.01 ~~through 113.07~~ of this rule.

**~~0902. Procedure for Appeal of Denial of a Certificate.~~** Immediately upon denial of any application for a certificate, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision.

**~~a.~~** ~~Immediately upon denial of any application for a certificate, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision.~~ The notice shall include the reason(s) for ~~its~~ the Department's decision; and how to appeal the decision.

**~~b.~~** The appeal is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (4-11-06)