

LICENSING RULES FOR ADULT FOSTER CARE FAMILY HOMES

Effective 9/15/1984

**BUREAU OF
COMMUNITY AND HEALTH SYSTEMS
ADULT FOSTER CARE AND CAMP
LICENSING DIVISION**



**STATE OF MICHIGAN
Department of Licensing and Regulatory Affairs**

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PREFACE

By Executive Order No. 1996-1 effective April 1, 1996, the references to the Department of Social Services within Act No. 218 are now assigned to the Department of Consumer & Industry Services, the references to the Department of Mental Health are now assigned to the Department of Community Health and the references to the Department of Public Health are now assigned to the Department of Community Health, the Department of Environmental Quality, and the Department of Agriculture.

By Executive Order No. 2003-18 effective December 7, 2003, the references to the Department of Social Services within Act No. 218 are now assigned to the Michigan Family Independence Agency.

By Executive Order No. 2004-38, effective March 15, 2005, the references to the Michigan Family Independence Agency within Act No. 218 are now assigned to the Department of Human Services.

By Executive Order No. 2015-04, effective April 10, 2015, the references to the Michigan Department of Human Services within Act No. 218 are now assigned to the Department of Licensing and Regulatory Affairs and references to Michigan Department of Community Health are assigned to the Michigan Department of Health and Human Services.

Requests for additional copies of this publication should be directed to the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, PO Box 30664, Lansing, Michigan 48909-8164.

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
ADULT FOSTER CARE AND CAMP LICENSING DIVISION
ADULT FOSTER CARE FAMILY HOMES

(By authority conferred on the Department of Social Services by section 9 of Act No. 380 of the Public Acts of 1965, as amended, and sections 10 and 13 of Act No. 218 of the Public Acts of 1979, as amended, being SS16.109, 400.710, and 400.713 of the Michigan Compiled Laws)

PART I
ADULT FOSTER CARE FAMILY HOMES
GENERAL PROVISIONS

R 400.1401 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Act" means Act No. 218 of the Public Acts of 1979, as amended, being S400.701 et seq. of the Michigan Compiled Laws.
- (b) "Capacity" means the maximum number of residents for which a home is licensed.
- (c) "Chemical restraint" means the use of any drug or chemical in an emergency situation to limit activity or aggressiveness of a resident where such activity or aggressiveness would be harmful to the resident, other persons, or property.
- (d) "Designated representative" means that person or agency which has been granted the authority to act on behalf of the resident by the resident or which is the legal guardian of that resident.
- (e) "Health care appraisal" means a licensed physician's or registered nurse's statement which provides an assessment of the general physical condition of a resident.
- (f) "Home" means an adult foster care family home.
- (g) "House guidelines" means those guidelines established by the licensee which constitute expectations for resident conduct.
- (h) "Members of the household" means all persons living in the home, exclusive of residents.
- (i) "Occupants" means all persons living in the home.
- (j) "Physical restraint" means the bodily holding of a resident with no more force than is necessary to limit the resident's movement.
- (k) "Premises" means the facility, grounds, and all other appurtenances.
- (l) "Resident" means an adult, as defined in section 3 of the act, who, because of mental illness, developmental disability, physical handicap, or aged condition, requires and receives foster care in an adult foster care family home and who does not require continuous nursing care.
- (m) "Responsible agency" means a public or private organization which, upon written agreement with a resident or the resident's designated representative, provides 1 or more of the following:
 - (i) Preplacement and placement services.
 - (ii) Assessment planning or the establishment of an individual plan of service.
 - (iii) Maintenance of ongoing follow-up services while the resident is in the home.
- (n) "Responsible person" means the licensee or adult designated by the licensee to provide foster care to residents.
- (o) "Street floor" means any story or floor level which is accessible from the street or from outside the building at grade and which, at the main entrance, is not more than 21 inches above nor more than 12 inches below street or grade level at those points, or a floor which is so arranged and used as to qualify as the main floor.
- (p) "Substantial risk" means that a resident's behavior poses a serious imminent threat of bodily harm to himself or herself or others or the destruction of property and that the resident is capable of carrying out such harm or destruction.
- (q) "Time-out" means a behavior management technique employed to reduce undesired behavior by separating a resident from his or her surroundings when the undesired behavior occurs.

(r) "Trust fund" means money or property set aside as a trust for a resident for the benefit of a resident and held for safekeeping by a licensee.

(2) Terms defined in the act have the same meanings when used in these rules.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1402 License application fee.

Rule 2. A \$15.00 license application fee shall accompany an original license application and a license renewal application for an adult foster care family home. The fee shall be nonrefundable.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1403 Licensee and applicant rights.

Rule 3. (1) A licensee or an applicant shall have the right to be treated with courtesy, dignity, and fairness by the adult foster care licensing division staff of the department and shall not be discriminated against on the basis of race, religion, color, national origin, sex, age, handicap, marital status, or source of funding.

(2) The department shall provide a licensee or an applicant with written notice regarding appeal rights as provided by Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and the act, when there is official notification of the intent to take an adverse action against an applicant or a licensee.

(3) A licensee or an applicant shall be informed of, and shall have the right to bring to the attention of the supervisor of the licensing representative, any alleged misapplication of enforcement of regulations by a licensing representative or any substantial differences of opinion as may occur between the licensee or the applicant and any licensing representative concerning the proper application of the act or these rules. A meeting with the supervisor shall be afforded upon request. This subrule notwithstanding, the licensee or the applicant may contact any other official of the department regarding issues relating to the licensing activities of the department. Any contact with the supervisor or any other departmental official shall not result in any retaliation by the licensing representative.

(4) All written communications, scheduled and unscheduled visits, routine licensing investigations and complaint investigations shall be conducted according to department policy and the provisions of the act.

(5) A licensee or an applicant may request, under the provisions of Act No. 442 of the Public Acts of 1976, as amended, being S15.231 et seq. of the Michigan Compiled Laws, copies of department policies or other documents governing the licensing activities of the department.

(6) A licensee or an applicant shall be afforded the opportunity to have a conference with the licensing representative before the conclusion of a routine licensing investigation or complaint investigation and, as soon as practicable thereafter, shall receive a written response indicating the findings of the licensing representative or any other licensing official.

(7) A licensee or an applicant shall have the right to review a licensing study report in which refusal to renew, revocation, or denial of license issuance is being recommended, before that report is finalized, except in situations where the department finds cause to invoke a summary suspension action. The licensee or the applicant shall have the right to submit a written response within 15 calendar days to the licensing study report. The final licensing study report shall include the licensee's or the applicant's written response, and the response shall be considered a part of the official record and shall be subject to disclosure under the provisions of Act No. 442 of the Public Acts of 1976, as amended, being S15.231 et seq. of the Michigan Compiled Laws.

(8) A licensee or an applicant shall have the right to provide a written response to the findings of the licensing representative or other department official in the event of a licensing investigation report or a complaint investigation report. Unless otherwise requested by the licensee or the applicant, in writing, the written response shall become a part of the department's official licensing record and shall be public information according to the provisions of Act No. 442 of the Public Acts of 1976, as amended, being S15.231 et seq. of the Michigan Compiled Laws and the act.

(9) A licensee or an applicant may request, in writing, a declaratory ruling as to the applicability of a rule as provided in section 63 of Act No. 306 of the Public Acts of 1969, as amended, being S24.263 et seq. of the Michigan Compiled Laws and the act.

(10) The department shall provide advice and technical assistance to the licensee or the applicant to assist the licensee in meeting the requirements of the act and these rules. The department shall offer consultation upon request in developing methods for the improvement of service.

(11) The department shall provide a licensee or an applicant with a written copy of the rights outlined in subrules (1) to (10) of this rule at the time of license application or license renewal.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1404 Licensee, responsible person, and member of the household; qualifications.

Rule 4. (1) A licensee and responsible person shall not be less than 18 years of age.

(2) A responsible person shall be other than a resident.

(3) A licensee or responsible person shall possess all of the following qualifications:

- (a) Be of good moral character to provide for the care and welfare of the residents.
- (b) Be suitable to meet the physical, emotional, social, and intellectual needs of each resident.
- (c) Be capable of appropriately handling emergency situations.

(4) A licensee shall have sufficient financial resources to provide for the adequate care of the family and residents.

(5) All responsible persons and members of the household shall be of good moral character and suitable temperament to assure the welfare of residents.

(6) A licensee shall provide the department with the name of any person providing care for a resident or member of the household who is on a court-supervised probation or parole or who has been convicted of a felony within the 5-year period before providing resident care.

(7) A licensee shall require all members of the household and responsible persons who have been released from a public or private psychiatric hospital for less than 1 year to provide a written statement verifying the person's personal fitness to care for or be associated with a resident. The statement shall be obtained from the medical or administrative director of the public or private psychiatric hospital and shall be made available to the department.

(8) A licensee shall have an arrangement with a responsible person who is available to provide care in an emergency situation for up to 72 hours.

(9) A licensee, responsible person, or member of the household shall not be the legal guardian of a resident living in the home, except where a person is a relative or where the guardianship relationship existed before the promulgation of these rules.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1405 Health of a licensee, responsible person, and member of the household.

Rule 5. (1) A licensee, responsible person, and a member of the household shall be in such physical and mental health so as not to negatively affect either the health of the resident or the quality of his or her care.

(2) A licensee shall have on file with the department a statement signed by a licensed physician or his or her designee with regard to his or her knowledge of the physical health of the licensee and each responsible person. The statement shall be signed within 6 months before the issuance of a license and at any other time requested by the department.

(3) A licensee shall provide the department with written evidence that he or she and each responsible person in the home is free from communicable tuberculosis. Verification shall be within the 3-year period before employment and verification shall occur every 3 years thereafter.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1406 Ratio of responsible persons to residents.

Rule 6. (1) The ratio of responsible persons to residents shall not be less than 1 responsible person to 6 residents and 2 children under the age of 12 years or ratio thereof.

(2) The number of occupants in a home, other than the licensee and the licensee's spouse, shall not exceed 10 persons.

(3) This rule does not apply to those adult foster care family home applicants or licensees who applied for a license or who were issued a license before the promulgation of these rules.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1407 Resident admission and discharge criteria; resident assessment plan; resident care agreement; house guidelines; fee schedule; physician's instructions; health care appraisal.

Rule 7. (1) A licensee shall not accept, retain, or care for a resident who, in accordance with a licensed physician's medical diagnosis and opinion, requires continuous nursing care. This does not preclude the accommodation of a resident who becomes temporarily ill while in the home, but who does not require continuous nursing care.

(2) A licensee shall not accept or retain a resident for care unless and until a resident assessment plan is made and it is determined that the resident is suitable pursuant to the following provisions:

(a) The amount of personal care, supervision, and protection required by the resident is available in the home.

(b) The kinds of services and skills required of the home to meet the resident's needs are available in the home.

(c) The resident appears to be compatible with other residents and members of the household.

(3) In situations where a resident is referred for admission, the resident assessment plan shall be conducted in conjunction with the resident or the resident's designated representative, the responsible agency, and the licensee. A licensee shall maintain a copy of the resident's written assessment plan on file in the home.

(4) In situations where a resident is referred for emergency admission and the licensee agrees to accept the admission, a resident assessment plan shall be conducted within 15 calendar days following the emergency admission. The resident assessment plan shall be conducted in accordance to the provisions outlined in subrules (2) and (3) of this rule.

(5) At the time of a resident's admission, a licensee shall complete a written resident care agreement which shall be established between the resident or the resident's designated representative, the responsible agency, and the licensee. A department form shall be used unless prior authorization for a substitute form has been granted in writing by the department. A resident shall be provided the care and services as stated in the written resident care agreement.

(6) A licensee shall review the written resident care agreement with the resident or the resident's designated representative and responsible agency at least annually or more often if necessary.

(7) A licensee shall contact a resident's physician for instructions as to the care of the resident under the following conditions:

(a) If the resident is under the care of a physician at the time of the resident's admission to the home.

(b) If the resident requires the care of a physician while living in the home.

(8) A licensee shall record in the resident's record the physician's instructions for the care of the resident as required in subrule (7) of this rule.

(9) If a resident is not under the care of a physician at the time of the resident's admission to the home, the licensee shall require that the resident or the resident's designated representative provide a written health care appraisal completed within the 90-day period before the resident's admission to the home. If a written health care appraisal is not available, a licensee shall require that the appraisal be obtained not later than 30 days after admission. A department form shall be used unless prior authorization for a substitute form has been granted in writing by the department.

(10) A licensee may establish house guidelines. House guidelines, if established, shall be provided in writing to the resident or the resident's designated representative and responsible agency upon

admission to the home or, if established after a resident's admission to the home, immediately thereafter. House guidelines shall not conflict with these rules.

(11) A licensee shall provide a resident or his or her designated representative and responsible agency with a statement of the fee policy at the time of admission. A fee statement shall include all of the following:

- (a) A description of services to be provided and the fee.
- (b) A description of additional costs above the basic fee policy.

(c) A description of the transportation costs in the basic fee structure and the transportation which is provided at extra cost.

(12) A licensee shall provide a resident with a 30-day written notice before discharge from the home. The written notice shall state the reasons for discharge. A copy of the written notice shall be sent to the resident's designated representative and responsible agency.

(13) A licensee may discharge a resident before the 30-day notice when it has been determined that any of the following exists:

- (a) Substantial risk or an occurrence of self-destructive behavior.
- (b) Substantial risk or an occurrence of serious physical assault.
- (c) Substantial risk or an occurrence of destruction of property.

(14) A licensee who discharges a resident pursuant to subrule (13) of this rule shall notify the resident's designated representative and responsible agency within 24 hours before discharge. Such notification shall be followed by a written notice to the resident's designated representative and responsible agency stating the reasons for discharge.

(15) A licensee shall not change the residency of a resident from one home to another without the written approval of the resident or the resident's designated representative and responsible agency.

(16) A licensee shall not establish any policies that restrict the resident's ability to make his or her own living arrangements.

(17) At the time of discharge, a licensee shall provide copies of resident records to the resident and his or her designated representative when requested and as determined appropriate by the resident or his or her designated representative. A fee charged for copies of resident records shall not exceed the cost to the licensee for making the copies available.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1408 Resident care; licensee responsibilities.

Rule 8. (1) A licensee shall provide basic self-care and habilitation training in accordance with the resident's written assessment plan.

(2) A licensee shall assure the availability of transportation services.

(3) A licensee shall provide the following when specified in the resident's written assessment plan:

(a) Direction and opportunity for the growth and development of a resident which are achieved through activities which foster independent functioning, such as dressing, grooming, manners, shopping, cooking, money management, and use of public transportation.

(b) Opportunity for involvement in educational, employment, and day program opportunities.

(4) A licensee shall provide all of the following:

- (a) Opportunity for the resident to develop positive social skills.
- (b) Opportunity for the resident to have contact with relatives and friends.
- (c) Opportunity for community-based recreational activities.
- (d) Opportunity for privacy and leisure time.
- (e) Opportunity for religious education and attendance at religious services of the resident's religious faith.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1409 Resident rights; licensee responsibilities.

Rule 9. (1) Upon a resident's admission to the home, the licensee shall inform and explain to the resident or the resident's designated representative all of the following resident rights:

- (a) The right to be free from discrimination against the provision of services on the basis of race, religion, color, national origin, sex, age, handicap, marital status, or source of payment.
 - (b) The right to exercise his or her constitutional rights, including the right to vote, the right to practice the religion of his or her choice, the right to freedom of movement, and the right of freedom of association.
 - (c) The right to refuse participation in religious practices.
 - (d) The right to write, send, and receive uncensored and unopened mail at his or her own expense.
 - (e) The right of reasonable access to a telephone for private communications. A licensee may charge a resident for long distance telephone calls. A pay telephone shall not be considered as meeting this requirement.
 - (f) The right to voice grievances and present recommendations pertaining to the policies and services of the home without fear of retaliation. A resident shall be informed of the home's complaint process.
 - (g) The right to associate and have private communications and consultations with his or her physician, attorney, or any other person of his or her choice.
 - (h) The right to participate in the activities of social, religious, and community groups at his or her own discretion.
 - (i) The right to use the services of advocacy agencies and to attend other community services of his or her choice.
 - (j) The right of reasonable access to and use of his or her personal clothing and belongings.
 - (k) The right to have contact with relatives and friends and receive visitors in the home at a reasonable time.
 - (l) The right to employ the services of a physician, psychiatrist, or dentist of his or her choice for obtaining medical, psychiatric, or dental services.
 - (m) The right to refuse treatment and services, including the taking of medication, and to be made aware of the consequences of that refusal.
 - (n) The right to request and receive assistance from the responsible agency in relocating to another living situation.
 - (o) The right to be treated with consideration and respect, with due recognition of personal dignity, individuality, and the need for privacy.
 - (p) The right of access to his or her room at his or her own discretion.
- (2) A licensee shall provide the resident and the resident's designated representative with a written copy of the rights outlined in subrule (1) of this rule upon a resident's admission to the home.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1410 Resident protection.

Rule 10. A licensee or responsible person shall always be on the premises when a resident is in the home.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1411 Resident behavior management; general requirements.

Rule 11. (1) A licensee shall ensure that methods of behavior management are positive and relevant to the needs of the resident.

(2) Methods of behavior management shall encourage cooperation, self-esteem, self-direction, and independence, and shall be administered in accordance with a resident's written assessment plan.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1412 Resident behavior management; prohibitions.

Rule 12. (1) A licensee shall not mistreat or permit the mistreatment of a resident by responsible persons or other occupants of the home. Mistreatment includes any intentional action or omission which exposes a resident to a serious risk of physical or emotional harm.

(2) A licensee, responsible person, or any person living in the home shall not use any of the following methods of handling a resident for discipline purposes:

- (a) Any form of severe punishment or physical force.
- (b) Restricting a resident's movement by binding or tying.
- (c) Confining a resident in an area such as a closet, locked room, box, or similar cubicle.
- (d) Withholding necessary food, rest, or toilet use.
- (e) Mental or emotional cruelty, including subjecting a resident to verbal abuse, making derogatory remarks about the resident or members of his or her family or making malicious threats.
- (f) Refusing the resident entrance to the home.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1413 Resident behavior management; time-out restriction; time-out reporting.

Rule 13. (1) A licensee shall not use time-out unless authorized, in writing, in the resident's written assessment plan, by the resident's designated representative and responsible agency.

(2) A licensee shall not use time-out until he or she has successfully completed time-out training as required by the responsible agency.

(3) A licensee shall maintain a written record of each occurrence of time-out. The record shall include all of the following information:

- (a) The nature of the time-out.
- (b) The reason for time-out.
- (c) The types of less restrictive alternatives which were tried.
- (d) The name of the person authorizing the use of time-out.
- (e) The times and dates time-out was used.

(4) A licensee shall make available reports of all uses of time-out when requested by the resident's designated representative, responsible agency, or the department.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1414 Resident behavior management; use of physical restraint, physical restraint report.

Rule 14. (1) Excluding those forms of behavior management prohibited in R 400.1412, physical restraint may be used when it has been determined that any of the following exists:

- (a) Substantial risk or an occurrence of self-destructive behavior.
- (b) Substantial risk or an occurrence of serious physical assault.
- (c) Substantial risk or an occurrence of destruction of property.

(2) Physical restraint shall be used to the minimum extent and the minimum duration necessary, and then only after less restrictive means of protection have failed.

(3) Physical restraint shall be employed to allow the resident the greatest possible comfort and to avoid physical injury and mental distress.

(4) If a resident requires the repeated and prolonged use of physical restraint or time-out within a 24-hour period, the licensee shall initiate a review process which includes all responsible persons and the resident's designated representative and responsible agency to evaluate the need for a more intensive treatment setting.

(5) All uses of physical restraint shall be noted in the resident's record. This notation shall include all of the following information:

- (a) The nature of the physical restraint used.
- (b) The reason for the use of physical restraint.
- (c) The types of less restrictive alternatives which were tried.
- (d) The person authorizing the physical restraint.
- (e) The times and dates physical restraint was administered.

(6) A licensee shall make available reports of all uses of physical restraint when requested by the resident's designated representative, responsible agency, or the department.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1415 Resident behavior management; chemical restraint restriction; chemical restraint report.

Rule 15. (1) The use of a chemical restraint shall only be prescribed and authorized by a licensed physician.

(2) When a chemical restraint is administered by the licensee or responsible person, the licensee or responsible person shall contact the resident's physician within a reasonable period of time following the administration of the chemical restraint.

(3) A licensee shall initiate a review process as stated in R 400.1414 when a resident requires the repeated and prolonged use of a chemical restraint.

(4) All uses of a chemical restraint shall be noted in the resident's record. This notation shall include all of the following information:

(a) The type of chemical restraint used.

(b) The reason for the use of the chemical restraint.

(c) The types of less restrictive alternatives which were tried.

(d) The name of the physician who prescribed and authorized the chemical restraint.

(e) The time and date the chemical restraint was administered.

(5) A licensee shall make available reports of all uses of a chemical restraint when requested by the resident's designated representative, responsible agency, or the department.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1416 Resident health care.

Rule 16. (1) A licensee, in conjunction with a resident's cooperation, shall follow the instructions and recommendations of a resident's physician with regard to such items as medications, special diets, and other resident health care needs that can be provided in the home.

(2) A licensee shall maintain a health care appraisal on file for not less than 2 years from the resident's admission to the home.

(3) A licensee shall record the weight of a resident upon admission and monthly thereafter. Weight records shall be kept on file for 2 years.

(4) A licensee shall make a reasonable attempt to contact the resident's next of kin, designated representative, and responsible agency by telephone, followed by a written report to the resident's designated representative and responsible agency within 48 hours of any of the following:

(a) The death of a resident.

(b) Any accident or illness requiring hospitalization.

(c) Incidents involving displays of serious hostility, hospitalization, attempts at self-inflicted harm or harm to others, and instances of destruction to property.

(5) A copy of the written report required in subrule (4) of this rule shall be maintained in the home for a period of not less than 2 years. A department form shall be used unless prior authorization for a substitute form has been granted in writing by the department.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1417 Absence without notice.

Rule 17. (1) If a resident is absent without notice, the licensee or responsible person shall do both of the following:

(a) Make a reasonable attempt to contact the resident's next of kin, designated representative, and responsible agency.

(b) Contact the local police authority.

(2) A licensee shall make a reasonable attempt to pursue other steps in locating the resident.

(3) A licensee shall submit a written report to the resident's designated representative and responsible agency in all instances where a resident is absent without notice. The report shall be submitted within 24 hours of each occurrence.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1418 Resident medications.

Rule 18. (1) Prescription medication, including tranquilizers, sedatives, dietary supplements, or individual special medical procedures, shall be given or applied only as prescribed by a licensed physician or dentist. Prescription medication shall be kept in the original pharmacy container which shall be labeled for the specific resident in accordance with the requirements of Act No. 368 of the Public Acts of 1978, as amended, being S333.1101 et seq. of the Michigan Compiled Laws.

(2) Medication shall be given pursuant to label instructions.

(3) Unless a resident's physician specifically states otherwise, all the giving, taking, or application of prescription medications shall be supervised by the licensee or responsible person.

(4) When a licensee or responsible person supervises the taking of medication by a resident, the licensee or responsible person shall comply with the following provisions:

(a) Maintain a record as to the time and amount of any prescription medication given or applied. Records of prescription medication shall be maintained on file in the home for a period of not less than 2 years.

(b) Not adjust or modify a resident's prescription medication without agreement and instructions from a physician or a pharmacist who has knowledge of the medical needs of the resident. A licensee shall record in writing any adjustments or modifications of a resident's prescription medication.

(5) Prescription medication shall be kept in the original pharmacy-supplied and pharmacy-labeled container, stored in a locked cabinet or drawer, refrigerated if required, and labeled for the specific resident.

(6) A licensee shall take reasonable precautions to insure that prescription medication is not used by a person other than the resident for whom the medication was prescribed.

(7) Prescription medication which is no longer required by a resident shall be destroyed after consultation with a physician or a pharmacist.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1419 Resident nutrition.

Rule 19. (1) A licensee shall provide a minimum of 3 regular nutritious meals daily. Not more than 14 hours shall elapse between the evening and morning meal.

(2) A licensee shall assure proper food preparation, serving, sanitation, and safety.

(3) Meals shall meet the nutritional allowances recommended under the "Suggested Daily Eating Guide" section, which is adapted from the "United States Department of Agriculture's Daily Food Guide (1979)," and based upon the "Recommended Dietary Allowances (1980)," and contained in the publication entitled "Basic Nutrition Facts," pages 28 and 29, Michigan department of public health publication no. H-808, 1980. This publication may be obtained without charge from Nutrition Services, Bureau of Personal Health Services, Michigan Department of Public Health, P.O. Box 30035, Lansing, Michigan 48909.

(4) Special diets shall be prescribed only by a physician. A resident who has a special diet prescribed by a physician shall be provided such a diet.

(5) The department may require menus to be written when there is substantial noncompliance with this rule. If menus are required, they shall be kept until substantial compliance with subrules (1) to (4) of this rule has been determined by the department.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1420 Resident hygiene.

- Rule 20. (1) A licensee shall afford a resident the opportunity for daily bathing.
(2) A licensee shall afford a resident facilities for daily shaving.
(3) A licensee shall afford a resident opportunities to obtain haircuts, hairsets, or other grooming processes.
(4) A licensee shall afford a resident opportunities, and instruction when necessary, to dress as fashion and season warrant.
(5) A licensee shall afford a resident who is capable, opportunities or instructions when necessary, to routinely launder clothing. Clean clothing shall be available at all times.
(6) A licensee shall afford a resident the opportunity to receive assistance in bathing, dressing, or personal hygiene from a member of the same sex, unless otherwise stated in the home's admission policy and written resident care agreement.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1421 Handling of resident funds and valuables.

- Rule 21. (1) A licensee may accept a resident's funds and valuables for safekeeping, to be held in trust with the licensee, upon request from a resident or the resident's designated representative.
(2) All resident funds and valuables which have been accepted by a licensee for safekeeping shall be treated by the licensee as a trust obligation.
(3) A licensee shall have a resident's funds and valuables transaction form completed and on file for each resident. A department form shall be used unless prior authorization for a substitute form has been granted in writing by the department.
(4) All resident funds and trust fund accounts shall be kept separate and apart from all funds and monies of the licensee.
(5) Except for trust fund accounts, a licensee shall not accept for safekeeping money and valuables exceeding a value of \$200.00 for any resident in the home. Trust fund accounts between the licensee and the resident are subject to a \$1,500.00 limitation.
(6) All trust fund account transactions shall require the signature of the resident or the resident's designated representative and the licensee or prior written approval from the resident or resident's designated representative.
(7) A resident's account shall be individual to the resident. A licensee shall be prohibited from having any ownership interest in a resident's account and shall verify such in a written statement to the resident or the resident's designated representative.
(8) A licensee, responsible person, and members of the licensee's or responsible person's family shall not borrow money or valuables from a resident, with or without the consent of the resident. A licensee shall further take reasonable precautions to assure the prohibition of financial transactions between a resident and other occupants of the home.
(9) A licensee shall obtain prior written approval from a resident and his or her designated representative before charges are made to a resident's account.
(10) Charges against the resident's account shall not exceed the agreed price for the services rendered and goods furnished or made available by the home to the resident.
(11) A licensee shall provide a complete accounting of all resident funds and valuables held for safekeeping and in trust fund accounts or paid to the home to the resident or to his or her designated representative on a quarterly basis. A receipt for resident expenditures shall be maintained by the licensee and shall be provided to the resident or designated representative upon request. The accounting of a resident's funds and valuables held for safekeeping or paid to the home shall also be provided, upon the resident's or designated representative's request, not later than 5 banking days following the request and at the time of the resident's discharge from the home.
(12) A licensee shall return the full amount of funds and valuables remaining in the account to the resident or his or her designated representative not later than 5 banking days following the request or date of discharge.

(13) A licensee shall report the death of a resident in writing to the public administrator of the Michigan Department of Attorney General, 1800 Michigan Plaza Building, 1200 Sixth Street, Detroit, Michigan 48226, not later than 10 calendar days following the death of the resident.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1422 Resident records.

Rule 22. (1) A licensee shall complete and maintain a separate record for each resident and shall provide record information as required by the department. A resident record shall include, at a minimum, all of the following information:

- (a) Identifying information, including, at a minimum, all of the following:
 - (i) Name.
 - (ii) Social security number.
 - (iii) Home address.
 - (iv) Name, address, and telephone number of the next of kin or designated representative.
 - (v) Name, address, and telephone number of person or agency responsible for the resident's placement in the home.
 - (vi) Name, address, and telephone number of the preferred physician and hospital.
 - (b) Date of admission.
 - (c) Date of discharge and place to which resident was discharged.
 - (d) Health care information, including all of the following:
 - (i) Health care appraisals.
 - (ii) Medication logs.
 - (iii) Statements and instructions for supervising prescribed medication.
 - (iv) Instructions for emergency care.
 - (e) Resident care agreement.
 - (f) Assessment plan.
 - (g) Weight record.
 - (h) Incident and accident reports.
 - (i) Resident funds and valuables record.
 - (j) Resident grievances and complaint record.
- (2) Resident records shall be kept on file in the home for 2 years after the date of a resident's discharge from a home.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1423 Resident recreation.

Rule 23. (1) A licensee shall make reasonable provision for a varied supply of leisure and recreational equipment appropriate to the number, care, needs, and interests of the residents. Such leisure and recreational equipment shall be safe, clean, in good repair, and easily accessible.

- (2) Equipment and materials shall encourage and reinforce all of the following:
- (a) Social interaction.
 - (b) Further growth through first-hand experiences.
 - (c) Social graces.
 - (d) Productive utilization of leisure time.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1424 Environmental health.

Rule 24. (1) The water supply shall be adequate, of a safe and sanitary quality, and from an approved source. Hot and cold running water under pressure shall be provided.

- (2) All sewage shall be disposed of in a public sewer system or, in the absence thereof, in a manner approved by the health authority.

R 400.1427 Living space.

Rule 27. (1) A licensee shall provide, per occupant, not less than 35 square feet of indoor living space, exclusive of bathrooms, storage areas, hallways, kitchen, and sleeping areas.

(2) A resident shall not be housed above a second floor of a 3-story single-family residence.

(3) Living and sleeping areas for a resident shall be contained within the home.

(4) Subrules (1) and (2) of this rule do not apply to those adult foster care family home applicants or licensees who applied for a license or who were issued a license before the promulgation of these rules.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1428 Dining space.

Rule 28. A family home shall have dining space which can accommodate all occupants in the home at the same time.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1429 Room temperature.

Rule 29. All occupied rooms of a home shall be heated at a temperature not less than 68 degrees Fahrenheit.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1430 Bathrooms.

Rule 30. (1) Toilets, bathtubs, and showers shall provide for individual privacy.

(2) Bathroom doors may be equipped with positive latching, non-locking-against-egress hardware. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bathroom doors.

(3) A home shall have a minimum of 1 toilet, 1 lavatory, and 1 bathing facility for each 8 occupants of the home.

(4) A home housing more than 8 occupants shall have a minimum of 2 toilets, 2 lavatories, and 2 bathing facilities.

(5) Subrule (4) of this rule does not apply to those adult foster care family home applicants or licensees who applied for a license or who were issued a license before the promulgation of these rules.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1431 Bedrooms generally.

Rule 31. (1) A living room, dining room, hallway, basement, or other room not ordinarily used for sleeping shall not be used for sleeping purposes by residents of the home.

(2) Bedrooms for residents shall be separated from halls, corridors, and other rooms by floor to ceiling walls.

(3) Interior doorways of bedrooms occupied by residents shall be equipped with a side-hinged, permanently mounted door equipped with positive-latching, non-locking-against-egress hardware.

(4) Traffic to and from any room shall not be through a resident bedroom.

(5) Bedrooms shall have at least 1 window.

(6) Residents of the opposite sex shall not occupy the same bedroom for sleeping purposes, unless they are husband and wife.

(7) A resident having impaired mobility, as determined by a licensed physician, shall not sleep in or be assigned a bedroom located above the street floor in a single-family residence.

(8) A resident shall be provided with reasonable storage space for storage of his or her personal belongings.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1432 Bedroom space; “usable floor space” defined.

Rule 32. (1) As used in this rule, “usable floor space” means floor space that is under a ceiling which is not less than 6 feet 6 inches in height, excluding closets and space under a portable wardrobe.

(2) A bedroom shall have not less than 65 square feet of usable floor space per bed.

(3) A maximum of 4 beds shall be allowed in any multi-occupancy bedroom.

(4) There shall not be less than a 3-foot clearance between beds in a multi-occupancy bedroom.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1433 Bedroom furnishings.

Rule 33. (1) Bedroom furnishings shall include an adequate closet, wardrobe, or a dresser.

(2) Rollaway beds, cots, double-deck beds, stacked bunks, hide-a-beds, and day beds shall not be used by residents for sleeping.

(3) A licensee shall provide a resident with a bed that is not less than 36 inches wide and 72 inches long, with comfortable springs in good condition, a clean protected mattress which is not less than 5 inches thick or 4 inches thick if of synthetic construction, and with a pillow.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1434 Linens.

Rule 34. (1) A licensee shall provide bedding which includes 2 sheets, a pillow case, a minimum of 1 blanket, and a bedspread. Bed linens shall be changed at least weekly or more often if soiled.

(2) A licensee shall provide towels and washcloths which shall be changed at least weekly or more often if soiled.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1442 Exemption from rules.

Rule 42. (1) Upon written request of an applicant or licensee, the department may grant an exemption from an administrative rule if there is clear and convincing evidence that the alternative to the rule complies with the intent of the administrative rule from which exemption is sought.

(2) The decision of the department, including the conditions under which the exemption is granted, shall be entered upon the records of the department, and a signed copy shall be sent to the applicant or licensee. This exemption may be time-limited or may remain in effect for as long as the licensee continues to comply with the intent of the rule.

(3) An exemption granted pursuant to this rule is not transferrable from one applicant to another or from one licensee to another.

History: 1984 MR 8, Eff. Sept. 15, 1984.

PART II
ADULT FOSTER CARE FAMILY HOMES LICENSED
AFTER MARCH 27, 1980
FIRE SAFETY PROVISIONS

R 400.1435 Interior finish of walls and ceilings; prohibited materials.

Rule 35. (1) Asphalt paper; cork; cardboard; carpeting, whether fire retardant treated or not; foam plastics; plastic materials; or other finish materials that will contribute to the rapid spread of fire or give off dense smoke or toxic gases shall not be permitted as interior finish of a home.

(2) This rule shall only apply to those adult foster care family homes licensed or proposed to be licensed after March 27, 1980.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1436 Interior finishes and materials.

Rule 36. (1) Interior finish materials shall be a minimum class C throughout the home.

(2) Interior finish materials shall be securely attached to, or furred out at least 1 inch from, dry wall, plaster, masonry wall, ceiling, or natural solid wood which is a minimum of 3/4 of an inch thick.

(3) The attaching of interior finish materials, other than dry wall, plaster, or natural solid wood, which is a minimum of 3/4 of an inch thick, directly to wall studs or to floor or ceiling joists, is prohibited.

(4) Class C materials shall be those interior finish materials which have the following minimum classifications:

- (a) Flame spread — 76-200.
- (b) Smoke density — 126-200.

(5) This rule does not apply to those adult foster care family home applicants or licensees who applied for a license or who were issued a license before the promulgation of these rules.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1437 Smoke detection equipment.

Rule 37. (1) At least 1 single-station smoke detector shall be installed at the following locations:

(a) Between the sleeping areas and the rest of the home. In homes with more than 1 sleeping area, a smoke detector shall be installed to protect each separate sleeping area.

(b) On each occupied floor, in the basement, and in areas of the home which contain flame- or heat-producing equipment.

(2) If batteries are used as a source of energy, they shall be replaced in accordance with the recommendations of the smoke or heat detection equipment manufacturer.

(3) Detectors shall be tested and examined as recommended by the manufacturer.

(4) Approved heat detectors may be installed in the kitchen and in other areas of the home containing flame- or heat-producing equipment instead of smoke detectors.

(5) Detectors mounted on ceilings shall be spaced not less than 6 inches away from any walls. Detectors mounted on walls shall be spaced between 6 and 12 inches away from the ceiling. A smoke detector shall not be mounted where ventilation systems or other obstructions keep smoke away.

(6) This rule shall only apply to those adult foster care family homes licensed or proposed to be licensed after March 27, 1980.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1438 Emergency preparedness; evacuation plan; emergency transportation.

Rule 38. (1) A licensee shall have an evacuation plan and written procedures to be followed in case of fire, medical emergency, or severe weather emergency. Residents who require special assistance shall be identified in the written procedure.

(2) The evacuation plan and emergency procedures shall be prominently posted in the home.

(3) A telephone shall be available and accessible in the home. Emergency telephone numbers, including fire, police, physician, health agency, and ambulance, shall be conspicuously posted immediately adjacent to the telephone.

(4) Fire drills shall be conducted 4 times a year. Two of the 4 required fire drills shall be conducted during sleeping hours. A record of the fire drills shall be incorporated with the evacuation plan.

(5) A licensee shall assure that residents and all occupants of the home are familiar, to the best of their ability, with the evacuation plan and emergency procedures.

(6) A licensee shall assure emergency transportation through the use of an ambulance service or a vehicle owned or in the possession of the licensee or responsible person.

(7) This rule shall only apply to those adult foster care family homes licensed or proposed to be licensed after March 27, 1980.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1439 Means of egress; wheelchairs.

Rule 39. (1) Family homes accommodating residents who regularly require wheelchairs shall minimally be equipped with 1 ramp located at a primary means of egress from the first floors.

(2) A ramp shall not exceed 1 foot of rise in 12 feet of run and shall terminate on a firm surface or solid unobstructed ground which will allow the wheelchair occupant to move a safe distance away from the building.

(3) This rule shall only apply to those adult foster care family homes licensed or proposed to be licensed after March 27, 1980.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1440 Heat-producing equipment.

Rule 40. (1) Heating shall be from an approved central heating plant or factory mutual and underwriters laboratories labeled or listed permanently installed, fixed-type electrical heating, such as a recognized panel or baseboard electrical heating system.

(2) A furnace, water heater, heating appliances, pipes, woodburning stoves and furnaces, and other flame- or heat-producing equipment shall be installed in a fixed and permanent manner and in accordance with a manufacturer's instructions and shall be maintained in a safe condition.

(3) Where conditions indicate a need for inspection, heat-producing equipment shall be inspected by a qualified inspection service. If there are violations, a copy of the inspection report shall be submitted to the department, together with a written corrective action plan. A copy of the certificate of approval from the qualified inspection service shall be maintained in the home and available for department review.

(4) Hot water pipes and steam radiators located in resident-occupied areas shall be shielded to protect against burns.

(5) Portable heating devices shall not be used.

(6) Heat-producing equipment located in a basement shall be separated from the remainder of the home by means of a floor separation. Standard building material shall be sufficient for the floor separation and shall include at least a 1 3/4-inch solid wood core door or equivalent which is installed in a substantially fully stopped wood or steel frame and which is so constructed to effectively stop the spread of smoke and fire. The door shall be equipped with an automatic self-closing device and positive-latching hardware.

(7) This rule shall only apply to those adult foster care family homes licensed or proposed to be licensed after March 27, 1980.

History: 1984 MR 8, Eff. Sept. 15, 1984.

R 400.1441 Electrical service.

Rule 41. (1) The electrical service shall be maintained in a safe condition.

(2) Where conditions indicate a need for inspection, the electrical service shall be inspected by a qualified electrical inspection service. If there are violations, a copy of the inspection report shall be submitted to the department, together with a corrective action plan. A copy of the certificate of approval from the qualified electrical inspection service shall be maintained in the home and available for department review.

(3) This rule shall only apply to those adult foster family homes licensed or proposed to be licensed after March 27, 1980.

History: 1984 MR 8, Eff. Sept. 15, 1984.

PART III
ADULT FOSTER CARE FAMILY HOMES
LICENSED ON OR BEFORE MARCH 27, 1980
FIRE SAFETY PROVISIONS

R 400.2201 Scope.

Rule 201. This part applies only to family homes which were licensed effective March 27, 1980, and which meet the requirements of section 21 of the act.

History: 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC; 1984 MR 8, Eff. Sept. 15, 1984.

R 400.2231 Home environment.

Rule 231. All occupied rooms shall be of standard lath and plaster construction or equivalent.

History: 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC; 1984 MR 8, Eff. Sept. 15, 1984.

R 400.2233 Bedrooms.

Rule 233. A room shall not be used as a bedroom where more than 1/2 of the room height is below grade except, where the ceiling of such portion of a building is located 5 feet or more above grade for more than 25% of the perimeter measurement of the building. Such acceptable bedrooms shall be provided with 2 acceptable means of egress.

History: 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC; 1984 MR 8, Eff. Sept. 15, 1984.

R 400.2242 Interior finishes and materials.

Rule 242. Paper, cardboard, asphalt paper, or other highly flammable material shall not be used for the interior finish of a building.

History: 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC; 1984 MR 8, Eff. Sept. 15, 1984.

R 400.2243 Exits.

Rule 243. (1) A means of egress shall be considered the entire way and method of passage to free and safe ground outside a building. Means of egress shall be maintained in unobstructed, easily traveled condition at all times. Where basements are regularly utilized for resident activities, there shall be 2 acceptable means of egress. Doors which form a part of a required means of egress shall be equipped with positive-latching, non-locking-against-egress hardware and shall be not less than 36 inches in width in new construction and not less than 30 inches in width in existing facilities and shall insure adequate egress for residents requiring wheelchairs, including ramps where necessary.

(2) The first floor of a family home shall have not less than 2 separate and independent means of egress leading to the outside.

(3) In new or remodeled family homes, corridors shall lead directly to the outside or to required stairways having egress directly outside at grade level.

(4) Occupied room and exterior door hardware shall be positive latching and nonlocking against egress.

(5) New and existing family homes accommodating residents who regularly require wheelchairs shall be equipped with ramps located at primary and secondary means of egress. A ramp shall not exceed 1 foot of rise in 12 feet of run.

History: 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC; 1984 MR 8, Eff. Sept. 15, 1984.

R 400.2244 Heating.

Rule 244. (1) Except as provided herein, a family home shall be heated by an approved heating plant. If the heating plant is located in the basement of a family home, standard building material is sufficient for the floor separation which shall include at least 1 3/4-inch solid wood core door or equivalent to create a floor separation between the basement and the first floor. If the heating plant is on the same level with the residents, the furnace room shall be separated from the remainder of the building with materials that will afford a minimum 1 hour protected enclosure. A permanent outside vent which cannot be closed shall be incorporated in the design of heating plant rooms so that adequate air for proper combustion is assured. Space heaters are prohibited.

(2) Factory mutual and underwriters' laboratories approved permanent, fixed-type electrical heating, such as recognized panel or baseboard fixed-type may be utilized in any location. In existing homes where an American gas association approved sealed combustion wall heater has been installed in accordance with both the AGA and the manufacturer's recommendations, approval will be given if the unit is located on an outside wall, obtains combustion air directly from the outside and vents products of combustion directly to the outside.

(3) Flame-producing water heaters or incinerators shall be installed with the same protection as a heating plant.

(4) Storage of combustible materials is prohibited in rooms containing the heating plant, water heater, or incinerator.

History: 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC.

R 400.2245 Fire extinguishers.

Rule 245. A minimum of one 5-pound multi-purpose fire extinguisher or equivalent shall be provided for use in a family home on each occupied floor and in the basement.

History: 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC.

R 400.2246 Electrical service.

Rule 246. Electrical service shall be maintained in a safe condition. Where conditions indicate a need for inspection, and on all new or remodeled projects, the electrical service shall be inspected by a qualified electrical inspection service and a copy of the inspection report shall be submitted to the department.

History: 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC.

R 400.2247 Safety generally.

Rule 247. (1) Stairways shall have sturdy and securely fastened handrails, not less than 30 inches nor more than 34 inches above the upper surface of the tread. Exterior stairways and porches shall have handrails on the open sides.

(2) Scatter or throw rugs on hard finished floors shall have a nonskid backing.

- (3) Handrails and nonskid surfacing or strips shall be installed in showers and bath areas.
 - (4) Sidewalks, fire escape routes, and entrances shall be kept free of any hazards such as ice, snow and debris.
 - (5) A yard area shall be kept free from all hazards, nuisances, refuse, and litter.
- History:** 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC.

R 400.2261 Emergency preparedness.

Rule 261. (1) A family home shall have a telephone. A family home shall have a written procedure to be followed in the case of fire or medical emergency. Responsible foster family members or employees shall be familiar with emergency planning and their responsibilities. Responsible persons shall be capable of using the telephone to summon appropriate assistance and carry out an evacuation plan.

(2) An emergency plan shall specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating residents of limited mobility and visitors, and provide for at least 4 fire drills per year. Emergency telephone numbers shall be immediately available.

(3) Residents, insofar as possible, adult members of the foster family and responsible persons shall be familiar with emergency procedures.

History: 1954 ACS 82, Eff. Feb. 1, 1975; 1979 AC.

ADMINISTRATIVE RULES CONCERNING THE GOOD MORAL CHARACTER REQUIREMENTS OF LICENSE APPLICANTS

This publication contains the administrative rules that govern assessment of the good moral character of applicants for licensure or registration of a child care organization or adult foster care facility.

The Child Care Organization and Adult Foster Care Facility Licensing Acts require the Michigan Department of Licensing and Regulatory Affairs to be satisfied that the applicant, registrant, or owners, partners, or directors of the facility if the applicant is other than an individual, are of good moral character prior to issuance or renewal of a license or registration. The goal and responsibility of the licensing programs administered by the Department's Bureau of Community and Health Systems is to protect by prevention the adults and children who use Michigan's licensed residential and child care programs through the identification of risks and the causes of predictable harm.

For the purpose of these rules, references to the Department of Social Services mean the Michigan Department of Licensing and Regulatory Affairs.

GOOD MORAL CHARACTER

These rules were filed with the Secretary of State on January 12, 1988, and became effective on January 28, 1988.

(By authority conferred on the Department of Social Services by section 9 of Act No. 380 of the Public Acts of 1965, as amended, Section 2 and 5 of Act No. 116 of the Public Acts of 1973, as amended, and Sections 5, 10, and 13 of Act No. 218 of the Public Acts of 1979, as amended, being §§16.109, 722.112, 722.115, 338.43, 400.705, 400.710, and 400.713 of the Michigan Compiled Laws)

R 400.1151 License issuance.

Rule 1. (1) A license, approval, or registration for a child care organization, as defined by Act No. 116 of the Public Acts of 1973, as amended, being §722.111 et seq. of the Michigan Compiled Laws, or an adult foster care facility, as defined by Act No. 218 of the Public Acts of 1979, as amended, being §400.701 et seq. of the Michigan Compiled Laws, shall not be issued by the Department of Social Services if the license applicant lacks good moral character.

(2) For purposes of criminal background investigations, "license applicant" means a licensee, a registrant, or a person with direct responsibility for daily operation of the facility to be licensed or approved.

History: 1988 MR 1, Eff. Jan. 28, 1988.

R 400.1152 Offenses evidencing lack of good moral character; applicability.

Rule 2. (1) the following offenses presume a lack of good moral character for purposes of issuing an original or renewal license, a certificate of registration, or an approval to a child care organization, as defined by Act No. 116 of the Public Acts of 1973, as amended, being §722.111 et seq. of the Michigan Compiled Laws, and for issuing an original or renewal license to an adult foster care facility, as defined by Act No. 218 of the Public Acts of 1979, as amended, being §400.701 et seq. of the Michigan Compiled Laws:

(a) Conviction of the license applicant, in a court of competent jurisdiction, of any crime involving a substantial misrepresentation of any material fact, including any of the following:

- (i) Bribery.

- (ii) Fraud.
- (iii) Filing of false claims.
- (iv) Aiding or abetting the filing of false claims.
- (v) Allowing an establishment to be used for illegal purposes.

(b) Conviction of the license applicant, in a court of competent jurisdiction, of any crime involving any of the following:

- (i) Homicide.
- (ii) Murder.
- (iii) Manslaughter.
- (iv) Mayhem.
- (v) Negligent homicide.
- (vi) Attempts to commit any of the offenses specified in paragraphs (i) and (ii) of this subdivision.

(c) Conviction of the license applicant, in a court of competent jurisdiction, of any crime, felony, or misdemeanor involving either of the following:

- (i) Assault.
- (ii) Battery.

(d) Conviction of the license applicant, in a court of competent jurisdiction, of any crime which involves a violent act, or a threat of a violent act, against a person or a crime constituting a sexual offense, which shall include any of the following:

- (i) Criminal sexual conduct in any degree.
- (ii) Activity for profit involving any of the following:

(A) Child abuse, neglect, or exploitation.

(B) Kidnapping.

(C) Adoption schemes.

(D) Prostitution or related crimes.

- (iii) Cruelty toward, or torture of, any person.

- (iv) Attempts to commit any of the offenses specified in paragraphs (i) and (iii) of this subdivision.

(e) Conviction of the license applicant, in a court of competent jurisdiction, of any of the following crimes:

- (i) Robbery.
- (ii) Armed robbery.
- (iii) Burglary.
- (iv) Receiving stolen property.
- (v) Concealing stolen property.
- (vi) Extortion.
- (vii) Obtaining property by false pretenses.
- (viii) Larceny by trick.
- (ix) Larceny by conversion.
- (x) Embezzlement.
- (xi) Arson.
- (xii) Offenses involving narcotics, alcohol or controlled substances that result in a felony conviction.
- (xiii) Offenses involving any of the following:

(A) Adulterating drugs, controlled substances, or preparations.

(B) Poisoning.

(C) Unlawful manufacture or delivery of drugs or possession with intent to manufacture or deliver drugs.

(xiv) Attempts to commit any of the offenses specified in paragraphs (i), (ii), and (iii) of this subdivision.

(2) The department of social services shall provide the license applicant with written notice regarding the findings as identified in subrule (1) of this rule as evidencing a lack of good moral character.

(3) The license applicant shall be afforded the opportunity to have an informal conference with department of social services representatives to demonstrate that he or she is a good moral character.

(4) Where an offense or offenses identified in subrule (1) of this rule exist, and license issuance or a certificate of registration is still recommended, the recommendation shall be reviewed by the department's administrative licensing officials for a final determination as to the issuance of a license or certificate of registration.

(5) The department of social services shall provide the license applicant with a written response, as soon as practicable after the review, indicating the determination of the licensing representative.

(6) The department of social services shall provide a license applicant with written notice regarding appeal rights if applicable as provided by Act No. 306 of the Public acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws, Act No. 116 of the Public Acts of 1973, as amended, being §722.111 et seq. of the Michigan compiled Laws, and Act No. 218 of the Public Acts of 1979, as amended, being §400.701 et seq. of the Michigan Compiled Laws, where there is official notification of the intent to deny the issue of a license or certificate of registration to an applicant or registrant based upon the license applicant's lack of good moral character.

History: 1988 MR 1, Eff. Jan. 28, 1988.

R 4010.1153 Denial of license renewal based upon previously reviewed convictions prohibited; exception.

Rule 3. The department shall not deny the license or certificate of registration renewal of a current licensee or registrant based upon convictions which had been reviewed when the license or certificate was issued. However, if new findings or new convictions are disclosed, the department will consider previously reviewed convictions when deciding to approve or deny the license or certificate renewal application of a current licensee.

History: 1988 MR 1, Eff. Jan. 28, 1988.

**MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF COMMUNITY AND HEALTH SYSTEMS**

**ADULT FOSTER CARE FACILITY LICENSING AND CHILD CARE ORGANIZATION
CONTESTED CASE HEARINGS**

Filed with the Secretary of State on September 7, 1999
This rule takes effect 15 days after filing with the Secretary of State

(By authority conferred on the director of the Michigan Family Independence Agency by section 2 of Act No. 116 of the Public Acts of 1973, as amended, section 10 of Act No. 218 of the Public Acts of 1979, as amended, and Executive Reorganization Order No. 1996-1, being §§722.112, 400.710, and 330.3101 of the Michigan Compiled Laws)

R 400.16001 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 116 of the Public Acts of 1973, as amended, being §722.111 et seq. of the Michigan Compiled Laws.

(b) "Act No. 218" means Act No. 218 of the Public Acts of 1979, as amended, being §400.701 et seq. of the Michigan Compiled Laws.

(c) "Noncompliance" means a violation of the act or act 218, an administrative rule promulgated under the act or act 218, or the terms of a license or a certificate of registration.

(d) "Substantial noncompliance" means repeated violations of the act or act 218 or an administrative rule promulgated under the act or act 218, or noncompliance with the act or act 218, or a rule promulgated under the act or act 218, or the terms of a license or a certificate of registration that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services.

(e) "Willful noncompliance" means, after receiving a copy of the act or act 218, the rules promulgated under the act or act 218 and, for a license, a copy of the terms of a license or a certificate of registration, an applicant or licensee knew or had reason to know that his or her conduct was a violation of the act or act 218, rules promulgated under the act or act 218, or the terms of a license or a certificate of registration.

(2) Except as provided in subrule (1) of this rule, a term defined in Act No. 306 of the Public Acts of 1969, as amended, being §§24.201 et seq. of the Michigan Compiled Laws, shall have the same meaning when used in these rules.

(3) The definitions in this rule apply to matters under the act and act 218 for contested case hearings.

April 20, 1999



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