

DEPARTMENT OF **HEALTH AND HUMAN SERVICES**

DIVISION OF CHILD WELFARE LICENSING

CHILD CARING INSTITUTIONS

Filed with the secretary of state on

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the ~~D~~director of the ~~D~~department of **health and H**human ~~S~~services by section 2, ~~5, 10, and 14~~ of 1973 PA 116, and **Executive** Reorganization Nos. ~~1996-1, 1996-2, 2003-1 and 2004-4~~ **2015-01**, MCL 722.112, ~~330.3101, 445.2001, 445.2011, and 400.226~~ **400.227**.)

R 400.4101 and R 400.4112 of the Michigan Administrative Code are amended, as follows:

PART 1. GENERAL PROVISIONS

R 400.4101 Definitions.

Rule 101. As used in these rules:

(a) "Accredited college or university" means a college or university recognized by the United States department of education.

(b) "Act" means 1973 PA 116, as amended, being §§ MCL 722.111 to 722.128, and known as the child care organization licensing act.

(c) "Audit" means a review done by an auditor that conforms with generally accepted accounting principles.

(d) "Case record" means the individual file kept by an institution concerning a child who has been placed at the institution.

(e) "Chief administrator" means the person designated by the licensee as having the onsite day-to-day responsibility for the overall administration of a child caring institution and for assuring the care, safety, and protection of residents.

(f) "Chief administrator designee" means a person above the level of the supervisor who approved an action, and who was not involved in the decision being reviewed.

(g) "Child caring institution," hereinafter referred to as "institution" or CCI, means an institution as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "**Child caring institution staff member**" means **an individual who is 18 years or older, and to whom any of the following apply:**

(i) Is employed by a child caring institution for compensation, including adults who do not work directly with children.

(ii) Is a contract employee or self-employed individual working with a child caring institution.

(iii) Is an intern or other person who provides specific services under these rules.

(~~hi~~) "Child placing agency" means an agency as defined in section 1 of 1973 PA 116, MCL 722.111.

(~~ij~~) "Children's therapeutic group home" means a children's therapeutic group home as defined in section 1 of 1973 PA 116, MCL 722.111.

(~~jk~~) "Corporal punishment" means hitting, paddling, shaking, slapping, spanking, or any other use of physical force as a means of behavior management.

(~~kl~~) "**Criminal history check**" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(~~km~~) "Detention facility" means an institution that primarily provides care and supervision for youth pending adjudication for status or criminal offenses or pending placement in a treatment facility post-adjudication.

(~~ln~~) "Department" means the Michigan department of **health and** human services.

(~~mo~~) "Developmentally disabled" means an individual who has an impairment of general intellectual functioning or adaptive behavior which meets all of the following criteria:

- (i) It originated before the person became 18 years of age.
- (ii) It has continued since its origination or can be expected to continue indefinitely.
- (iii) It constitutes a substantial burden to the impaired person's ability to perform normally in society.

(iv) It is attributable to 1 or more of the following:

(A) Significant cognitive impairment, cerebral palsy, epilepsy, or autism.

(B) Any other condition of a person found to be closely related to significant cognitive impairment because it produces a similar impairment or requires treatment and services similar to those required for a person who is significantly cognitively impaired.

(~~np~~) "Direct care worker" means a person who provides direct care and supervision of children in an institution.

(~~oq~~) "Human behavioral science" means a course of study producing a degree from an accredited college or university in any of the following:

- (i) Social work.
- (ii) Psychology.
- (iii) Guidance and counseling.
- (iv) Consumer or community services.
- (v) Criminal justice.
- (vi) Family ecology.
- (vii) Sociology.

(~~pr~~) "Juvenile justice youth" means a youth pending adjudication for status or criminal offenses or a youth who has been adjudicated under section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2a, or section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1.

(~~qs~~) "License" means a license issued by the department to a non-governmentally operated institution or a certificate of approval issued by the department to a governmentally operated institution indicating that the institution is in compliance with these rules.

(~~rt~~) "Licensee" means the agency, association, corporation, firm, organization, person, partnership, department, or agency of the state, county, city, or other political subdivision that has submitted an original application for licensure or approval or has

been issued a license or certificate of approval to operate a child caring institution.

(**su**) "Licensee designee" means the individual who is authorized by the licensee, board of directors, or the governing body for a public institution, to act on behalf of the corporation or organization on licensing matters.

(**tv**) "Licensing authority" means the administrative unit of the department that has the responsibility for making licensing and approval recommendations for an institution.

(**w**) "Medication" means prescription and nonprescription medicines.

(**vx**) "Misconduct" is conduct by a resident that affects the safety and security of residents, staff, or the community.

(**wy**) "Open institution" means an institution or facility, or portion thereof, which is used to house residents and which is not locked against egress, except for an approved behavior management room.

(**xz**) "Parent" means biological parent, including custodial and non-custodial parent, adoptive parent, or guardian.

(**yaa**) "Personal restraint", also referred to as resident restraint, means personal restraint as defined in section 2b of 1973 PA 116, MCL 722.112b.

(**zbb**) "Protection" means the continual responsibility of the licensee to take reasonable action to ensure the health, safety, and well-being of a resident while under the supervision of the licensee or an agent or employee of the licensee, including protection from physical harm, humiliation, intimidation, and social, moral, financial, and personal exploitation.

(**aacc**) "Resident" means a child who is admitted to and resides in an institution.

(**bdd**) "Seclusion" means seclusion as defined in section 2b of 1973 PA 116, MCL 722.112b.

(**eee**) "Seclusion room" means a room or area approved for the confinement or retention of a single resident. The door to the room may be equipped with a security locking device which operates by means of a key or is electrically operated and has a key override and emergency electrical backup in case of a power failure.

(**eff**) "Secure institution" means an institution, or portion thereof, other than a seclusion room, used to house residents that is secured against egress from the building.

(**egg**) "Serious injury" means any significant impairment of the physical condition of the minor child as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

(**h**) "Shelter care facility" means an institution which primarily provides care for residents for assessment, short-term supportive care, or placement planning.

(**ggi**) "Social service supervisor" means a person who supervises a social service worker.

(**hjj**) "Social service worker" means a person who works directly with residents, their families, and other relevant individuals and who is primarily responsible for the development, implementation, and review of service plans for the resident. This definition does not prevent a team approach to service plan development and implementation.

~~(ii) "Staff" means a person who is employed by an institution, a volunteer for the institution, including student interns, or a person who is used by the institution to provide specific services covered by these rules.~~

~~(jkk)~~ "Terms of license" or "terms of approval" means those designations noted on an institution's license or certificate of approval for which the institution is authorized or approved. Such designations include the following:

- (i) Short-term institution.
- (ii) Residential treatment institution.
- (iii) Secure institution.
- (iv) Open institution.
- (v) Age of children to be accepted for care.
- (vi) Sex of children to be accepted for care.
- (vii) Number of children to be accepted for care.
- (viii) Effective and expiration dates.

~~(kkl)~~ "Treatment institution" means an institution whose primary purpose and function is to provide habilitative or rehabilitative services.

R 400.4112 **Criminal history check, subject to requirements; staff qualifications.**

Rule 112. (1) **Child caring institutions subject to 42 USC 671 shall not permit a child caring institution staff to begin working unless all of the following has been completed using the forms and, in the manner, prescribed by the department:**

(a) A criminal record check as referenced in rule 113(f), including a fingerprint-based check of national crime information databases, unless an alternative criminal history check has been approved by the federal government.

(b) A check of Michigan's child abuse and neglect central registry or Canadian provincial agency as referenced in rule 113(i).

(c) A check of other states' child abuse registry that the person has lived in within the preceding five years.

(2) A person who has unsupervised contact with children shall not have been convicted of either of the following:

- (a) Child abuse or neglect.
- (b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.

(3) A person who has unsupervised contact with children shall not be a person who is listed on the central registry as a perpetrator of child abuse or child neglect.

~~(4)~~ A person with ongoing duties shall have both of the following:

- (a) Ability to perform duties of the position assigned.
- (b) Experience to perform the duties of the position assigned.

(5) An unsupervised volunteer who performs work, including adults who do not work directly with children, is subject to the requirements of (1)(a) and (b).