

PUBLIC HEARING COMMENT FOR 2020-03 HS-Foster Family and Group Homes

NAME AND ORGANIZATION	RULE NUMBER	COMMENT	DEPARTMENT'S RESPONSE
Lara Bose, Director Forward Michigan	Fostering Entire Rule Set	We are in complete agreement with the rule set as proposed. We would like to see the rules expedited and put into place as quickly as possible to reduce barriers to foster care licensure as that is necessary to be able to make placement for children and match them to homes best to provide their services for their needs.	No comment needed
Shannon Chatman, Licensing Supervisor Ennis Center	R 400.9206	Rule 400.9206, and that's the Evaluation of the Family. We'd like to just have a concern that if we -- can we still ask the question -- can a private agency ask the question about why the family wants to become a foster family? ... Just as someone who has been in licensing for some time, that's one of the questions that I feel like I get a good response from families and it clarifies whether or not they would make an acceptable foster parent. I mean, if they're choosing to become a foster parent because they want to make money, then we can share with them that that's not the purpose of foster care and things like that.	The licensing worker already assesses finances in R 400.9201. If the applicant doesn't have sufficient resources, R 400.9201 will cover that concern. Regarding asking the question "why", R 400.12307 already addresses that concern during foster parent orientation that is mandated by rule. Based upon these factors, it will allow a licensing worker to make an informed decision of the motives of the proposed foster family.
Shannon Chatman, Licensing Supervisor Ennis Center	R 400.9306	The next rule we discussed as an agency was Rule 400.9306, and that's specifically about the bedroom square footage, which I thought 40 square feet was a good, minimum standard. So now that's removed and I'm concerned that families may end up really stretching the limits and putting too many children in a room. And without that rule minimum square footage, I think we're going to have a hard time telling families, no, you can't put four children in this tiny room.	The Family First Prevention Services Act (FFPSA) federal national standards require the room have enough space for occupants, beds, and storage. DHS has added these standards to the rule.
Shannon Chatman, Licensing Supervisor Ennis Center	R 400.9306	And then the other comment we had about bedrooms and sleeping arrangements is removing the restriction regarding Pack 'N Plays and bassinets. I guess this one is a question. What happens when the agency says no to a family that has a bassinet because the bassinet is concerning, wobbly? I mean, I've seen some really, you know, marginal bassinets when they were allowed back in the day. So what happens if the agency says no and the family says, "But it's not a rule?"	See R 400.9306. Cribs and non-cribs are subject to federal safety standards which include they be safe and in good working condition. Further, see R 400.9206 requires the licensee or applicant to maintain a safe home and property.
Shannon Chatman, Licensing Supervisor Ennis Center	R 400.9308	Back in the day they did not require the telephone in the home, and then it was put in and agencies had to adjust and families had to adjust. And I thought having a home phone in the home was important because what if we have a 4-year-old -- and the rule is -- the new rule is written to say "close proximity." But if it's a 4-year-old, I would say "close proximity," we don't want a 4-year-old running outside down to the neighbor's house because, you know, there's an emergency with the foster parent. Even to call 911, it would be better to have the phone in the home.	The change was a result of the FFPSA national licensing standards.
Shannon Chatman, Licensing Supervisor Ennis Center	R 400.9401	And then Rule 400.9401, I was very happy when this rule changed and they added that children had to have a bed of their own and now it seems like we're going back to the way it was before and allowing two children to share a bed. And as an agency, our preference has always been that each child has their own bed. Even if two kids choose to share a bed, I think it's really important for trauma, kids with trauma, to have their own space, their own bed. And I think taking that out of the rule just opens up too much leeway for families to use just one bed for two kids.	This change was a result of the FFPSA federal national standards. In addition, the rules require the foster parent to make sleeping arrangements based on the child's needs/trauma.
Shannon Chatman, Licensing Supervisor Ennis Center	R 400.9502	Rule 400.9502. It seems that there's no longer the requirement for the family to report a change in employment. That was crossed off from the rules. And I just think that is something that should be reported and should be required to report. So if the agency -- this is another one of those if the agency has that as a rule for families is that violating the CPA rules that says we can't have stricter requirements? So that would be a concern. We want foster families to have to report a change in employment.	The licensing worker must do an annual assessment of income for the foster family. This assessment should be sufficient. There are rules to allow for a special evaluation in the event the foster family is having financial difficulties.
Lara Bose, Director Forward Michigan	Fostering R 400.9306	In regards to Rule 400.9306, bedrooms, we are concerned about an inconsistency between subrule (c) and (d). Subrule (c) made changes to the requirements regarding walls, ceilings, and floors. Subrule (d) did not indicate a change to the latched door requirement. We are under the impression that this is because of fire and possible carbon monoxide safety issues, that these two things seem inconsistent and might pose a barrier to foster homes knowing how to be in compliance with this entire rule set for bedrooms. And we would like the Department to do further research and determine whether latched doors are still necessary. We like the removal of the added requirements in subrule (c).	DHS agrees there is a conflict between the two subrules. The original language requiring floor to ceiling walls is reinstated. The issue of latched doors was brought up during a meeting with LARA Fire Regulations Division who indicated this is the proper language to ensure ingress and egress are safe for the foster child and family.
Erin Matuz, Licensing Worker, DHS	Several Rules	See Comments	Ms. Matuz's comments were not considered. After given the ability to respond to the rule changes internally, and after consultation with AHO, her written comments constitute a conflict of interest. I.e. DHS is the agency changing the rules and DHS staff are not the "public". MCL 24.203 defines "agency" as the department or bureau promulgating the rule. MCL 24.205 defines "person" as essentially anyone other than the agency.

From: [Matuz, Erin \(DHHS\)](#)
To: [MDHHS-AdminRules](#)
Cc: [Mansfield, Wendy \(DHHS\)](#); [Hull, Angela \(DHHS\)](#)
Subject: Comments re: CPA and FH rules 2020-2 and 2020-3 HS
Date: Thursday, October 7, 2021 11:55:50 AM
Attachments: [image001.png](#)

Good morning. My name is Erin and I am a foster home licensor with the State of Michigan. I have had the opportunity to review the proposed changes to the CWL-Pub 11 (pink book) titled "Licensing Rules for Child Placing Agencies" (2020-2 HS) and CWL-Pub 10 (green book) titled "Licensing Rules for Foster Family Homes and Foster Family Group Homes for Children" (2020-3 HS).

I understand that public hearings are to be completed and comments may be submitted to this email address. Thank you for your consideration of the notes below.

RE: Proposed Changes to CWL-Pub 11 (pink book) titled "Licensing Rules for Child Placing Agencies" (2020-2 HS) →

- R12303(1) and (2) – (Agencies having written policy & procedures) Why are agencies required to have their own written policies and procedures [see 12303] when R12403(3) indicates agencies may not be more restrictive than Department policies or Administrative rules? With the exception of local contact persons or procedures, what would the agency policies include that the pink/green books do not?
- R12312 – (b) The 6 hours of training annually after licensure – How does the initial "Original" (6-month) license play into this? All reporting periods are 1 year *except for* that initial 6-month license. The revised rule should acknowledge 6 hours is due annually *after* the first 6-month renewal.
- R12313 – With the elimination of the "reasonable restraint" exception to behavior support, does that mean children who need "bear hugs" when out of control cannot get it, or is that considered allowed physical intervention (per green book R404(2))?
- R12313(b) – Seclusion in a room forbidden – Does this mean children can't be sent to their rooms for a time out? Please make rule more clear about meaning/intentions.
- R12313(f) – Re: Denial of communication with family forbidden – It is not reasonable to expect that foster children should have 24/7 ability to communicate with their family. Please add a caveat that reasonable restrictions about the timing and manner of communication are appropriate.
- R12316 – (Personal Possessions) Saying a child has a right to his or her possessions; we sometimes have youth not allowed to have their cell phones or other electronic devices, depending on their use, the foster family expectations, behavior support plans, etc. Please add a caveat for these sorts of situations.
- R12317 – (Allowance) Is this saying a specified cash allowance will be required to be given to youth? Is there a prescribed way for agencies to monitor allowance? Please make rule more

clear about meaning/intention.

- R12320 - (Supervision) There are some applicants, relatives especially, who have difficulty identifying sub care providers. To require them to have someone willing to take children for extended overnight periods may be prohibitive. Please also provide clarification on what “extended overnight periods” means and if it matters if that care is provided in the licensed home or in the substitute care provider’s home? Also, isn’t there a time limit to how long a foster parent can legally leave a foster child with an unlicensed person?
- R12322 – Involvement with law enforcement pursuant to criminal investigation – Locally, our agency requires notification of contact with law enforcement for things like domestic disturbances (which is not necessarily a criminal investigation). But R12403(3) seems to take away our local ability to require more than the pink & green books prescribe. Is that accurate?
- R12323(1)(d) – Emergency policy required for epidemics – This is not similarly reflected in the foster home rules (green book) R411. Does that mean individual agencies must have a plan for how to do business in an epidemic, but not necessarily related to licensing of foster homes? Clarification is needed.
- R12326(2) – (After-hours borrowed beds) What documentation, if any, will need to be maintained by the agency to prove compliance with the verbal after-hours summary?

RE: Proposed Changes to CWL-Pub 10 (green book) titled “Licensing Rules for Foster Family Homes and Foster Family Group Homes for Children” 2020-3 HS →

- R301(4)(d) – Barriers around swimming pools with safety device – will funding be allocated to help current foster parents comply? Will there be a grace period/deadline for compliance to be achieved?
- R304(2) – Portable heating devices will not be allowed in bedrooms, but will they be allowed overnight in other areas of the home? This needs clarification.
- R401(6) – (Bedrooms) This is eliminated; does that mean there is no age limit on a child sharing a room with a (foster) parent? This needs clarification.
- R401(7) – (Bedrooms) This is eliminated; does that mean there is no prohibition on opposite genders sharing a bedroom? (Or even a bed, given the revised 401(6). This needs clarification.
- R404(b) is inconsistent with the proposed wording in 2020-2 HS (pink book) R400.12313(b). 404(b) forbids confinement in a closet or locked room; 12313(b) says confinement *or seclusion* in a ~~locked~~ room is not allowed. Not only is the wording inconsistent, agencies have had differing interpretations of seclusion, with some forbidding children from being put in a time-out in their own rooms by themselves, saying it equates to seclusion. Please add clarification.
- R408(a) – (Personal Possessions) Saying a child has a right to his or her possessions; we

sometimes have youth not allowed to have their cell phones or other electronic devices, depending on their use, the foster family expectations, behavior support plans, etc. Please add a caveat for these sorts of situations.

- R409(a) and (b) – (Allowance) Is this saying a specified cash allowance will be required to be given to youth? This needs clarification.
- R412(3) – Medications being accessible as appropriate for the age & functioning level of the children in the home is vague. This needs clarification. (Currently, DCWL enforces a lock & key expectation for all prescription and OTC medication. How will DCWL be interpreting/enforcing this with agencies?)
- R413 – (Supervision) There are some applicants, relatives especially, who have difficulty identifying sub care providers. To require them to have someone willing to take children for extended overnight periods may be prohibitive. Please also provide clarification on what “extended overnight periods” means and if it matters if that care is provided in the licensed home or in the substitute care provider’s home? Also, isn’t there a time limit to how long a foster parent can legally leave a foster child with an unlicensed person?

Comments relevant to both books’ proposed rule changes:

- Currently, the DCWL licensing TA manual indicates if a family does not immunize their own children, they shall not be licensed to foster children under 7 years of age. I did not notice that in the proposed CPA or FH rules. Will that still be enforced?

Thank you for the opportunity to submit my comments for consideration.

~ Erin

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