



STATE OF MICHIGAN  
JOCELYN BENSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

June 8, 2023

**NOTICE OF FILING**

**ADMINISTRATIVE RULES**

To: Secretary of the Senate  
Clerk of the House of Representatives  
Joint Committee on Administrative Rules  
Michigan Office of Administrative Hearings and Rules (Administrative Rule #22-046-LR)  
Legislative Service Bureau (Secretary of State Filing #23-06-04)  
Department of Licensing and Regulatory Affairs

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2022-046-LR (Secretary of State Filing #23-06-04) on this date at 2:03 P.M. for the Department of Licensing and Regulatory Affairs entitled, "Adult Foster Care Congregate Facilities".

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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.

Sincerely,

Jocelyn Benson  
Secretary of State

Lashana Threlkeld, Departmental Supervisor  
Office of the Great Seal

Enclosure



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

ORLENE HAWKS  
DIRECTOR

June 8, 2023

The Honorable Jocelyn Benson  
Secretary of State  
Office of the Great Seal  
Richard H. Austin Building – 1<sup>st</sup> Floor  
430 W. Allegan  
Lansing, MI 48909

Dear Secretary Benson:

Re: Administrative Rules – Michigan Office of Administrative Hearings and Rules  
Administrative Rules #: 2022-46 LR

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated December 8, 2022 for the Department of Licensing & Regulatory Affairs “**Adult Foster Care Congregate Facilities**”. We are transmitting these rules to you pursuant to the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6.

Sincerely,

A handwritten signature in black ink, appearing to be "Suzanne Sonneborn", written over a faint horizontal line.

Michigan Office of Administrative Hearings and Rules



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

## LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated December 8, 2022, in which the Department of Licensing and Regulatory Affairs proposes to modify a portion of the Michigan Administrative Code entitled “**Adult Foster Care Congregate Facilities**” by:

- ◆ Adding R 400.2404a.
- ◆ Amending R 400.2404 and R 400.2454.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: April 21, 2023

Michigan Office of Administrative Hearings and Rules

By: 

Ashlee N. Lynn,  
Attorney



Since 1941

**Legal Division**

**Kevin H. Studebaker, Director**

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Licensing and Regulatory dated December 8, 2022, amending R 400.2404 and R 400.2454 and adding R 400.2404a of the Department's rules entitled "Adult Foster Care Congregate Facilities." I approve the rules as to form, classification, and arrangement.

Dated: April 21, 2023

LEGISLATIVE SERVICE BUREAU

By 

Rachel M. Hughart,  
Legal Counsel



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

## CERTIFICATE OF ADOPTION

By authority conferred on the Department of Licensing and Regulatory Affairs by Section 9 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.109, and sections 10 and 13 of the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.710 and 400.713, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2015-1, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 400.227

R 400.2404 and R 400.2454 of the Michigan Administrative Code are amended and R 400.2404a is added.

Date: 04/14/2023

Adopted by: *Marlon I. Brown*  
Marlon I. Brown  
Chief Administrative Officer  
Department of Licensing and Regulatory Affairs

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF COMMUNITY AND HEALTH SYSTEMS

ADULT FOSTER CARE CONGREGATE FACILITIES

Filed with the secretary of state on June 8, 2023

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) 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 department of licensing and regulatory affairs by section 9 of the Executive organization act of 1965, 1965 PA 380, MCL 16.109, and sections 10 and 13 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.710 and 400.713, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2015-1, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 400.227)

R 400.2404 and R 400.2454 of the Michigan Administrative Code are amended and R 400.2404a is added, as follows:

PART 4. CONGREGATE FACILITIES

R 400.2404 Change in health and accidents.

Rule 404. (1) If an accident or sudden adverse change in a resident's physical condition or adjustment occurs, a congregate facility shall obtain needed care immediately and notify the responsible relative and the individual or agency responsible for placing and maintaining the resident in the congregate facility.

(2) An occurrence of a reportable communicable disease as defined by the laws of this state or the rules implementing the laws must be reported immediately to the local health department and the department.

(3) Immediate investigation of the cause of an accident involving a resident must be initiated by a congregate facility licensee or administrator and an appropriate accident record must be completed and maintained.

R 400.2404a Incident notification, incident records.

Rule 404a. (1) As used in these rules:

(a) "Department" means the department of licensing and regulatory affairs.

(b) "Elopement" means a resident that has a service plan that requires notice or arranged supervision to leave the facility and is absent without notice or supervision.

(c) "Incident" means, consistent with the incident recordkeeping requirement in this rule, an intentional or unintentional event where a resident sustains physical or emotional harm, an unexpected or unnatural death, is displaced by a natural disaster, or elopes.

(2) If a resident has a representative identified in writing on the resident's care agreement, the licensee shall report to the resident's representative within 48 hours after any of the following:

(a) Unexpected or unnatural death of a resident.

(b) Unexpected and preventable inpatient hospital admission.

(c) Physical hostility or self-inflicted harm or harm to others resulting in injury that requires outside medical attention or law enforcement involvement.

(d) Natural disaster or fire that results in evacuation of residents or discontinuation of services greater than 24 hours.

(e) Elopement from the home if the resident's whereabouts is unknown.

(3) If an elopement occurs, staff shall conduct an immediate search to locate the resident. If the resident is not located within 30 minutes after the elopement occurred, staff shall contact law enforcement.

(4) An incident must be recorded on a department-approved form and maintained in the home for a period of not less than 2 years.

(5) The department may review incident reports during a renewal inspection or special investigation. This does not prohibit the department from requesting an incident report if determined necessary by the department. If the department does request an incident report, the licensee shall provide the report in electronic form within 24 hours after the request. The department shall maintain and protect these documents in accordance with state and federal laws, including privacy laws.

#### R 400.2454 Accident records.

Rule 454. An accident record must be prepared for each accident involving a resident. An accident record must include the following information:

(a) The name of the resident involved in the accident.

(b) The date, hour, place, and cause of the accident.

(c) The effect of the accident on the resident involved and the care given.

(d) The name of the physician notified and the time of the notification.

(e) The physician's statement regarding the extent of the injuries, the treatment ordered, and disposition of the resident involved.

(f) Corrective measures taken to avoid repetition of the accident.

FILED WITH SECRETARY OF STATE

ON 10/8/2023 AT 2:03PM