



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

June 9, 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 #22-047-LR)
Legislative Service Bureau (Secretary of State Filing #23-06-05)
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 #2022-047-LR (Secretary of State Filing #23-06-05) on this date at 9:54 A.M. for the Department of Licensing and Regulatory Affairs entitled, "Adult Foster Care Small Group Homes".

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 9, 2023

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

Dear Secretary Benson:

Re: Administrative Rules – Michigan Office of Administrative Hearings and Rules
Administrative Rules #: 2022-47 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 Small Group Homes**”. 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,

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 Small Group Homes**” by:

- ◆ Amending R 400.14102 and R 400.14311.

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: *Emily Leik*

Emily Leik,
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 Affairs dated December 8, 2022, amending R 400.14102 and R 400.14311 of the Department's rules entitled "Adult Foster Care Small Group Homes." 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 MCL 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 400.14102 and R 400.14311 of the Michigan Administrative Code are amended.

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 SMALL GROUP HOMES

Filed with the secretary of state on June 9, 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 MCL 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 400.14102 and R 400.14311 of the Michigan Administrative Code are amended, as follows:

PART 1. GENERAL PROVISIONS

R 400.14102 Definitions.

Rule 102. (1) As used in these rules:

(a) "Act" means the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(b) "Administrator" means the individual that is designated by the licensee to be responsible for the daily operation and management of the adult foster care small group home. The administrator may be the licensee.

(c) "Admission policy" means a home's public statement of its purpose, eligibility requirements for admission, and application procedures for admission.

(d) "Assessment plan" means a written statement that is prepared in cooperation with a responsible agency or individual that identifies the specific care and maintenance, services, and resident activities appropriate for each individual resident's physical and behavioral needs and well-being and the methods of providing the care and services, taking into account the preferences and competency of the individual.

(e) "Assistive device" means the use of an item such as a pillow, pad, or medically supplied therapeutic support that is intended to achieve or maintain the proper position, posture, or balance of a resident. An assistive device may also be an item that is intended to promote, achieve, or maintain the resident's independence. Anything that is used with

the intent to restrain a resident and that does not permit the resident to remove the device by himself or herself is a restraint and is not an assistive device.

(f) "Capacity" means the maximum number of residents that a home is licensed for.

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

(h) "Designated representative" means the individual or agency that has been granted written authority, by a resident, to act on behalf of the resident or that is the legal guardian of a resident.

(i) "Direct care staff" means the adult that is designated by the licensee to provide personal care, protection, and supervision to residents.

(j) "Discharge policy" means a home's written statement of the conditions and procedures that a resident is discharged from the home by.

(k) "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.

(l) "Health care appraisal" means a licensed physician's, licensed physician's assistant's, or registered nurse's statement that provides an assessment of the general physical condition of a resident.

(m) "Home" means an adult foster care small group home.

(n) "House rules" means those rules that are established by the licensee and that set expectations for resident conduct.

(o) "Incident" means an intentional or unintentional event where a resident sustains physical or emotional harm, unexpected or unnatural death, is displaced by a natural disaster, or elopes as defined in these rules.

(p) "Isolation" means the complete and unattended separation of a resident from staff and other residents.

(q) "Members of the household" means all individuals that live in the home, exclusive of residents.

(r) "Occupants" means all individuals that live in the home.

(s) "Physical restraint" means the bodily holding of a resident with no more force than is necessary to limit the resident's movement.

(t) "Premises" means the home, grounds, and all other appurtenances.

(u) "Program statement" means a written description of the home's program that must at a minimum, include the following:

(i) The population to be served.

(ii) Program goals, services, in addition to those provided in the home, and community resources to meet the residents' needs.

(iii) Services to be provided in the home to the residents, including a description of the types of staff competencies that are necessary to carry out these services.

(iv) A description of any contract agreement that services and programs are provided through.

(v) "Related" means any of the following relationships by marriage, blood, or adoption:

(i) Spouse.

(ii) Child.

(iii) Parent.

(iv) Brother.

(v) Sister.

(vi) Grandparent.

- (vii) Aunt.
- (viii) Uncle.
- (ix) Stepparent.
- (x) Stepbrother.
- (xi) Stepsister.
- (xii) Cousin.

(w) "Resident" means an adult, as that term is defined in section 3 of the act, MCL 400.703.

(x) "Resident funds" means any money, securities, bonds, or stocks that are received by a licensee from, or on behalf of, a resident. Resident funds includes all of the following:

- (i) Payment for adult foster care services.
- (ii) Personal allowance.
- (iii) Money held as a trust obligation.
- (iv) Money in accounts with financial institutions.

(y) "Responsible agency" means a public or private organization that, after written agreement with a resident or the resident's designated representative, provides either or both of the following:

- (i) Assessment planning and the establishment of an individual plan of service.
- (ii) Maintenance of ongoing follow-up services while the resident is in the home.

(z) "Street floor" means any story or floor level that is accessible from the street or from outside the building at grade and, at the main entrance, is not more than 21 inches above, nor more than 12 inches below, street or grade level at those points.

(aa) "Substantial risk" means that a resident's behavior poses a serious imminent threat of bodily harm to himself or herself or others or the threat of the destruction of property, and the resident is capable of carrying out such harm or destruction.

(bb) "Transportation services" means vehicle travel by public or private carrier and related cost to and from program resources in the community, including consultation, medical, and other services.

(cc) "Valuables" means personal property of a resident, which includes jewelry, furniture, electronic equipment, appliances, and clothing items that have a value of more than \$25.00.

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

R 400.14311 Incident notification, incident records.

Rule 311. (1) If a resident has a representative identified in writing on the resident's care agreement, a 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.

(2) 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.

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

(4) 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.

FILED WITH SECRETARY OF STATE

ON 6/9/2023 AT 9:54 AM