

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

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REQUEST FOR RULEMAKING (RFR)

1. Department:

Health and Human Services

2. Bureau:

Children's Services Agency

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Child Caring Institutions

5. Rule numbers or rule set range of numbers:

R 400.4101 400.4666

6. Estimated time frame:

12 months

Name of person filling out RFR:

Mary Brennan

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

These rules address the licensing requirements for child caring institutions in the state. They provide the minimal standards for staff qualifications, facility requirements, licensing, and fire safety. The rules were last updated in 2015. Since that time, federal law requirements have changed, and new issues have evolved that require a review of the entire rule set to address such current issues involving LGBT youth, vaccinations, and variance requirements. Further, there are conflicts within the child caring institution, child placing agencies, and foster family and group home rules that need to be amended for consistency for the contracted agencies providing services.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

Department Director

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

By authority conferred on the Director of Health and Human Services by section 2, 1973 PA 116, MCL 722.112 and E..R. O. No. 2015-1, MCL 400.227.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

MCL 722.112 provides MDHHS is "responsible for the development of rules for the care and protection of children in organizations covered by this act and for the promulgation of these rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328."

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not conflict with, duplicate, or exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

A Technical Advisor handbook was created as an explanation for the rules. This handbook will need amendment.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

The rules have been added to the department's annual regulatory plan this current year.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

Prior to the rulemaking, the Division of Child Welfare Licensing had statewide meetings with foster parents, child caring institution staff, child placing agencies staff, and other stakeholders prior to the rulemaking for best practices and changes needed to the current structure. Further, workgroups were developed to rewrite the rules that involved the same players and stakeholders.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The rules were last evaluated in 2015. Changes to federal and state law, and stakeholder improvements have been the focus and the reason for the rule updates.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

There is a continued need for the rules. Any rescission to rules will be addressed by the workgroup.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No