

Draft
Adult Foster Care Facilities
Administrative Rules
Highlights

1. **Goal** - Create a single administrative rule set for adult foster care facilities authorized under the Adult Foster Care Facility Licensing Act, Act 218 of 1979. Also incorporate areas of the Technical Assistance manual in order to drastically reduce or eliminate the need for technical assistance.
 - a. Replace and rescind the following rule sets:
 - i. Congregate R 400.2401-2475
 - ii. Family R 400.1401-1442
 - iii. Large Group R 400.15101-15411
 - iv. Small Group R 400.14101-14601
 - v. Certification of Specialized Programs, R 330.1801-1809
 - vi. Fire Safety for Adult Foster Care Facilities 6 or Less, R 400.2201-2376
2. **Objective** - Administrative rules to be uniformed insofar as reasonable between AFC facility type unless circumstances otherwise justify a distinction between types.
3. **Authority** – The Adult Foster Care Facility Act grants authority to promulgate administrative rules, specifically MCL 400.710, including rules for certification of specialized programs. Additional requirements for rules are stated in MCL 400.712 (records and reports), 400.718 (duration of special licenses), 400.721 (fire safety standards), 400.722 (relocation of services).
4. **Requirement for Review** – MCL 400.710(5) requires the Adult Foster Care Advisory Council to review any applicable administrative rule not less than once every 5 years.

Highlights

- Rescinds 6 administrative rules sets to create 1 rules set.
- Creates a single cooperation requirement to demonstrate applicant's and licensee's compliance.

Notable changes

- Creates a local, state, and federal compliance standard that are germane to this act and rules. (607)
- New or revised definitions for crisis intervention, developmental disability, individual plan of service, licensee, mental illness, money, physical disability, staff, traumatic brain injury, valuable. (609)
- Increases the dollar amount of resident's valuables from \$25 to \$100. (609.1.ss)
- Changes # of days to report changes from last application to department within 10 business days. (611.4)
- Clarifies occupant and resident when determining capacity. (613)
- Adds requirement to keep records of licensure and vaccination of pets. (617)
- Clarifies that fire safety plan needs to be written and what needs to be included in the fire safety plan. (619.3) Staff must be trained in the fire plan and training must be documented (619.7)

- **New rule to issue a special license if residents are temporarily displaced from their licensed home due to a disaster. Special license can be issued up to a year while restoration is being completed. (620)**
- **New rule where minor individuals who are 16 or 17 years old can be considered as a direct care staff under subrule (1) and counted towards the staff-to-resident ratio if all the required criteria are met. They do have some duties they cannot do (transport residents, pass medication). (629.2)**
- Staff training must be in accordance with these rules and nationally recognized standards as applicable. (629.6)
- **Allows option for licensees to complete a TB risk assessment in lieu of TB testing. (631.6)** This is like HFA requirements.
- Allows department to review certain financial documents (635)
- Rescinds the requirement to use a department-approved form for recording funds and valuables but records still must be maintained. (637)
- Increased the amount of money the licensee can maintain in resident funds from \$200 to \$400. (637.7)
- Increased the amount of resident funds the resident must have immediate access to from \$20 to \$40. (637.8)
- Added language about reference checks could not be obtained, then at least the AFC must document their attempts. (639.1.f)
- Added timeframe of 48 hours to document in resident records crisis intervention incidents by staff that implemented the intervention. (643.6)
- For homes with a private well, water test now also required to test for arsenic and nitrate readings. The department can require additional monitoring as deemed necessary. The department may also require a home that installed water treatment equipment to also take water samples in accordance with this rule (645.1)
- For homes with a private sewer system, updated requirements that they must comply with. (645.3)
- Added requirements for a pool or spa. (645.10)
- Updated requirements and references for stairs and ramps to have handrails. (647.10)
- Property damage reported to the department if the residents are displaced or services are disrupted. (647.18)

- No longer allow residents to be housed about the second floor. Will allow for variance for those previously licensed about the 2nd floor and continuously licensed since May 24, 1994. (651.6)
- Added new language to clarify that resident space must be located within the facility. (651.7)
- Require a multi-purpose room for all AFCs (651.8)
- Clarifies that air conditioning is not required but does require the licensee to take precautions to prevent long exposure to high temperatures. (653)
- Allows for bedroom windows not to be openable if certain criteria are met (air conditioning, ducted fresh air and windows are breakable by staff and emergency personnel for emergency rescue). (657.7)
- Facility can remove the resident bed from the resident bedroom if certain criteria are met. (661.1.a)
- The licensee can allow the resident to use their own furnishings in lieu of the facility providing furnishings. (661.2)
- Updated nutritional guidelines. (663.4)
- Added requirement to label any food once removed from its original packaging and being stored. (665.7)
- New rule requiring minimum linens to be at least twice the capacity of licensed beds or more as required by the residents' needs (669.3)
- Requires a hospice service plan, do-not-resuscitate order or any other advance directive to be included as an addendum to the resident assessment and maintained with the assessment plan in the resident's record. (671.4)
- Clarified that the facility must contact the resident's health care professional or prescribing health care professional when a medication error occurs. (675.4.f)
- Clarified what hygiene products that licensee must ensure are available. (677)
- Added to resident rights that a resident must be free from discrimination based on their "gender identity". (681.3)
- Deleted some licensee rights that are spelled out in other statutes (Administrative Procedures Act and FOIA) (683)
- Changes assessment plan to be completed in 7 calendar days after emergency admission. Previously was 15 days. (685.5)

- Added language that the resident care agreement does not need to be signed annually by all parties if no changes and the licensee documents all parties were notified. (685.9)
- New language about the facility having an overnight visitor policy if the facility allows it. Requires roommate permission if a resident wants to have an overnight visitor in their room. (687.3)
- Allows the department to dismiss complaints if the allegation does not provide specific information to allow the department to investigate. (695.2.b)
- Requires vehicles with a capacity of 12 or more to be inspected in accordance with the Michigan Vehicle Code. (697)
- Allows for battery powered wireless connected smoke detectors in lieu of hard wired connected to the facility electrical system if certain criteria are met. (715.2)
- Allows for portable space heaters if certain criteria are met. (729.4)

Other general changes

- Created a document retention requirements of 2 years for most things. Menus and staff scheduled must be maintained for 90 days.
- Modified requirements where it required only a physician to review to expand to other appropriate health care professionals.

Rules Sets to be Consolidated

- Family Homes R 400.1401-1442 - 22 Pages, 42 Rules, 1984 Last Update
- Small Group Homes R 400.14101-14601 - 39 Pages, 60 Rules, 1994 Last Update
- Large Group Homes R 400.15101-15411 - 33 Pages, 46 Rules, 1994 Last Update
- Congregate Facilities R 400.2401-2475 - 15 Pages, 38 Rules, 1979 Last Update
- Certification of Specialized Programs R 330.1801-1809 - 5 Pages, 9 Rules, 1996 Last Update
- Family Homes Fire Safety R 400.2201-2376 - 6 Pages, 11 Rules, 1982 Last Update

CURRENT Rules Sets

- 120 Pages
- 206 Rules

PROPOSED Rules Set

- 37 Pages
- 73 Rules