

LICENSING AND REGULATORY AFFAIRS
BUREAU OF COMMUNITY AND HEALTH SYSTEMS
LICENSING FAMILY AND GROUP CHILD CARE HOMES

(By authority conferred on the director of the department of licensing and regulatory affairs by section 2 of the child care organizations act, 1973 PA 116, as amended, MCL 722.112, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2004-4, and 2015-1, MCL 330.3101, 445.2001, 445.2011, 400.226, and 400.227)

R 400.1901 Definitions.

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

- (a) "Act" means 1973 PA 116, MCL 722.111 to 722.128.
- (b) "Adult" means a person 18 years of age and older.
- (c) "Applicant" means an individual who applies for a license to operate a family or group child care home.
- (d) "Basement" means a story of a building or structure having $\frac{1}{2}$ or more of its clear height below average grade for at least 50% of the perimeter.
- (e) "Child care assistant" means an individual who is 14 to 17 years of age, who participates in child care activities in a family or group child care home, and who shall not have unsupervised access to or provide unsupervised care or supervision of children.
- (f) "Child care background check system" means the database maintained by the department to document comprehensive background checks and eligibility determinations, pursuant to section 5n of the act, MCL 722.115n.
- (g) "Child care home" means a family child care home and a group child care home.
- (h) "Child care staff member" means that term as defined in section 1(a) of the act, MCL 722.111(a).
- (i) "Child passenger restraint device" means a device that is used to restrain, seat, or position a child weighing 65 pounds or less that meets the requirements of federal motor vehicle safety standard No. 213, child restraint systems, 49 CFR 571.213 (2019), which is hereby adopted by reference.
- (j) "Child-use space" means the rooms and floor levels of the home approved by the department for child care.
- (k) "Cleaned" means washed vigorously with soap and water and rinsed with clean water.
- (l) "Combustible" means materials that will ignite and burn when subjected to a fire or excessive heat.
- (m) "Comprehensive background check" means a department review of an individual as required in sections 5n and 5q of the act, MCL 722.115n and 722.115q.
- (n) "Conducive to the welfare of children" means that term as defined in section 5m(13)(b) of the act, MCL 722.115m(13)(b).

(o) “Continuously employed child care staff member” and “continuously connected adult household member” means an individual who has not been disconnected for more than 180 days from the child care background check system and has continuously resided in Michigan for the immediately preceding 5-year period, as required in sections 5n(15) and 5n(16) of the act, MCL 722.115n(15) and 722.115n(16).

(p) “Conviction” means that term as defined in section 1(i) of the act, MCL 722.111(i).

(q) “Criminal history check” means that term as defined in section 1(j) of the act, MCL 722.111(j).

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

(s) “Eligible” means that term as defined in section 1(m) of the act, MCL 722.111(m).

(t) “Family child care home” means that term as defined in section 1(o)(iii) of the act, MCL 722.111(o)(iii).

(u) "Field trip" means children and personnel leaving the child care home premises for an excursion, trip, or program activity.

(v) "Fire alarm" means a device that is used to alert all persons in the home of fire conditions. The device must be heard in all parts of the home that are approved for use by children.

(w) "Foster child" means a person who resides in a foster home, who was placed in the foster home by a placing agent, who is not living with a parent or legal guardian, who is less than 18 years of age or becomes 18 years of age while residing in the foster home and continues to reside in the foster home as a dependent adult, and who is not related to an adult member of the foster family by blood, adoption, or marriage.

(x) “Group child care home” means that term as defined in section 1(o)(iv) of the act, MCL 722.111(o)(iv).

(y) "Heat detector" means a single or multiple station alarm responsive to heat.

(z) “Ineligible” means that term as defined in section 1(n) of the act, MCL 722.111(n).

(aa) "Licensee" means that term as defined in section 1(q) of the act, MCL 722.111(q).

(bb) "Means of egress" means the exit route from any point in the home to the outside at ground level.

(cc) “Member of the household” means that term as defined in section 1(s) of the act, MCL 722.111(s).

(dd) "Minor" means a person less than 18 years of age.

(ee) “MiRegistry” is the electronic data system for child care providers to verify and track employment, training, and educational accomplishments, which is maintained by the department of education. MiRegistry offers a statewide calendar of online and classroom training opportunities. MiRegistry can be accessed online at <http://www.miregistry.org>.

(ff) "Nonprescription medication" means any over-the-counter medication that may be orally ingested or applied to the skin, including but not limited to: aspirin, acetaminophen, cold and flu medicines, mosquito repellants, antiseptics, ointments, powders, and diaper rash products.

(gg) “Nighttime care” means child care provided between midnight to 5:00 a.m.

(hh) "Parent" means a child's natural or adoptive parent who is legally responsible for the child or the child's legal guardian.

(ii) "Permanently resides" means the address is the individual's primary residence and his or her presence in the home is not contingent upon caring for children.

(jj) "Personnel" means a licensee, child care staff member, and child care assistant.

(kk) "Premises" means the location of the child care home where the licensee and family reside and includes the attached yard, garage, basement, non-child use space, and any other outbuildings.

(ll) "Related" means that term as defined in section 1(y) of the act, MCL 722.111(y).

(mm) "Routine transportation" means regularly scheduled travel on the same day of the week, at the same time, to the same destination. Any deviation is non-routine transportation.

(nn) "Safety belt" means an automobile lap belt or lap-shoulder belt combination designed to restrain and protect a passenger or driver of a vehicle from injury.

(oo) "Sanitized" means to wipe or spray the surface with a sanitizing solution, let the surface air dry or wipe dry after two minutes, or according to the manufacturer's directions, with a single service towel.

(pp) "Serious injury" means that term as defined in section 2b of 1973 PA 116, MCL 722.112b.

(qq) "Smoke detector" means a device that detects visible or invisible particles of combustion.

(rr) "Supervised volunteer" means an individual who is 16 years of age or older, provides services for a child care home that are not compensated, and who is supervised at all times when children are in care.

(ss) "Transportation" means the taking of children by means of a vehicle to or from a family or group child care home and to and from all other activities planned by or through the family or group child care home.

(tt) "Unsupervised volunteer" means an individual who is 18 years of age or older, provides services for a child care home that are not compensated, and who has been determined eligible by the department to be unsupervised with children.

(uu) "Vehicle" means an automobile, truck, or van that transports persons upon a highway.

(vv) "Water activities" mean activities in residential pools, lakes, ponds, or other bodies of water. Water activities do not include water play activities such as water table play, slip and slide activities, wading pools, or playing in sprinklers.

(2) A term defined in the act has the same meaning when used in these rules.

History: 2005 AACS; 2009 AACS; 2019 AACS.

Editor's Note: An obvious error in R 400.1901 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2019 MR 23. The memorandum requesting the correction was published in *Michigan Register*, 2020 MR 1.

R 400.1902 Applicant; licensee; requirements.

Rule 2. (1) An applicant and a licensee shall meet all of the following requirements:

(a) Be 18 years of age or older.

(b) Have a high school diploma, general educational development (GED) certificate, or approved training track and hours for child care home providers through MiRegistry.

(c) Permanently reside in the child care home as a member of the household.

(d) Have proof of certification in both of the following:

(i) Infant, child, and adult cardiopulmonary resuscitation (CPR).

(ii) First aid.

(e) Have documentation of completed training in both of the following:

(i) Recognition and reporting of child abuse and neglect.

(ii) Prevention and control of infectious disease, including immunizations.

(f) Attend an orientation provided by the department.

(2) An applicant or licensee shall be of responsible character and shall be suitable and able to meet the needs of children and provide for their care, supervision, and protection.

(3) All persons, including minors, residing in the child care home shall meet all of the following requirements:

(a) Be suitable to meet the needs of children.

(b) Be able to ensure that services and facilities are conducive to the welfare of children.

(c) Act in a manner that is conducive to the welfare of children.

(d) Demonstrate a willingness and ability to comply with the act and these rules.

(4) The applicant and licensee shall submit all required information and reports using the specified forms, which are available on the child care licensing division's website: www.michigan.gov/michildcare. These forms are also available at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Licensing Division, 611 W Ottawa, Lansing, MI 48933-1070.

History: 2005 AACS; 2009 AACS; 2019 AACS.

R 400.1903 Licensee responsibilities.

Rule 3. (1) A licensee shall be responsible for all of the following:

(a) When the child care home is in operation, the licensee shall be present in the home on a daily basis and provide direct care and supervision for the majority of time children are in care, except for any of the following circumstances:

(i) Vacation or personal leave, which must not exceed 20 days within a calendar year. The 20 days of vacation or personal leave means the licensee is absent the entire day or at least 51% of the day when the child care home is operating. A licensee may have a short periodic absence from the home.

(ii) Medical treatment and subsequent recovery.

(b) The exceptions in subrule (1)(a) of this rule do not include other part-time or full-time employment that occurs during the hours of operation of the child care home.

(c) Provide for a child care staff member, who has valid CPR and first aid certifications, to act on behalf of the licensee when the licensee is unable or unavailable to provide direct care.

(d) Inform parents when a child care staff member is providing care in the absence of the licensee.

(e) Maintain a record of the dates of licensee absences. These records must be maintained for a minimum of 4 years.

(f) Post the current license in a conspicuous place within the child care home during the hours of operation.

(g) Report to the department within, 3 business days, any changes in the household composition or when any new or existing member of the household or child care personnel has any of the following:

(i) An arrest.

(ii) A conviction.

(iii) An arraignment for an offense that if convicted would lead to that individual's ineligibility to be connected with a child care home.

(iv) Is being investigated by the state department of health and human services for an allegation of child abuse or neglect.

(v) Is under court supervised parole or probation.

(vi) Has been admitted to, or released from, a correctional facility.

(vii) Has been admitted to or released from a health facility or agency that was providing mental health or substance use disorder treatment services to the individual.

(h) The report required in subdivision (g) of this subrule shall be made using the department's form named Notification of Changes in Status – Family and Group Child Care Homes, which is labeled BCAL-1485.

(i) Notify personnel of their duty to report to the licensee any actions listed in this rule.

(j) For any member of the household or personnel who has been treated on an inpatient or outpatient basis for an emotional, mental, or substance use disorder during the last 2 years, the licensee shall provide to the department a written statement verifying the individual's fitness to care for or be associated with children. This statement must be obtained from the medical or mental health professional who is directly involved in the individual's treatment plan or the administrator of the health facility or agency that provided services to the individual.

(k) Immediately report to children's protective services any suspected child abuse or neglect and ensure compliance with the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

(1) Have a written policy and procedure for the screening and supervision of volunteers, if applicable, including volunteers who are parents of a child in care.

(2) The licensee shall ensure that a child is released only to persons authorized in writing by the parent.

(3) The licensee shall permit parents of enrolled children who are in attendance to visit the child at the child care home at any time during hours of operation, as required in section 3a of the act, MCL 722.113a.

(4) The licensee shall cooperate with the department in connection with an inspection or investigation, as required in section 10(1) of the act, MCL 722.120(1). Cooperation includes, but is not limited to, all of the following:

(a) Admit authorized members of the department into the approved child caring areas of the child care home and provide access to all records, individuals, and other materials necessary to determine compliance with the act and these rules.

(b) Allow the department to perform routine investigative functions during the course of an investigation, inspection, or examination. Routine investigative functions include, but are not limited to, both of the following:

(i) Interviewing potential witnesses, such as child care staff members, members of the household, and volunteers.

(ii) Taking photographs to assess and document the conditions of the child care home and its compliance with the act and these rules.

(c) Provide accurate and truthful information to the department, and encourage witnesses to provide accurate and truthful information to the department.

(5) The licensee shall ensure that all personnel, members of the household, and conduct themselves in a manner that is conducive to the welfare of children.

(6) The licensee shall have present at all times at least 1 person who can accurately comprehend all of the following information:

(a) The act, these rules, and any additional communications from the department.

(b) Child information cards.

(c) Written directions about a child's care.

(d) Information about food, cleaning, and chemical labels that can impact a child's well-being.

(e) Written medication directions for a child.

(f) Information needed to effectively implement emergency procedures.

(7) The licensee shall cooperate with the department by ensuring that all individuals requiring a comprehensive background check are entered into the child care background check system and processed for eligibility as required by sections 5n and 5q of the act, MCL 722.115n, 722.115q, and R 400.1925.

(8) To comply with section 3c of the act, MCL 722.113c, a licensee shall have a policy and procedure on smoking and vaping that includes all of the following:

(a) Ensure that smoking and vaping do not occur in child-use space, on the premises of a child care home while children are in care, and in a vehicle when used to transport children who are in care.

(b) Conspicuously post on the premises a notice stating that smoking and vaping are prohibited on the premises during child care hours.

(c) Notify parents if smoking or vaping occurs in the child care home and on the premises when children are not in care.

(9) Provide identifying information to the department on both of the following individuals who are associated with the child care license:

(a) Licensee.

(b) Adult household member.

(10) The information required in subrule (9) of this rule shall be provided to the department on the department's form named Child Care Licensing Information Request, which is labeled BCHS CC-001.

History: 2005 AACS; 2009 AACS; 2019 AACS.

Editor's Note: An obvious error in R 400.1903 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2019 MR 23. The memorandum requesting the correction was published in *Michigan Register*, 2020 MR 1.

R 400.1904 Rescinded.

History: 2005 AACS; 2009 AACS; 2019 AACS.

R 400.1904a Child care staff member; employment requirements.

Rule 4a. (1) An individual who is employed as a child care staff member in a child care home shall be 18 years of age or older, pursuant to section 1 of the act, MCL 722.111.

(2) Before caring for children at a child care home, an individual shall provide the licensee with all of the following:

(a) A valid certification in infant, child, and adult CPR.

(b) A valid certification in first aid.

(c) Proof of training in the prevention of infectious disease, including immunizations. Hours of training in the prevention of infectious disease from MiRegistry will be allowed to count for training hours to meet this requirement.

(3) Prior to contact with children, the individual shall be determined by the department to be eligible to serve as a child care staff member, pursuant to sections 5n and 5q of the act, MCL 722.115n, 722.115q, and as required by R 400.1925.

(4) A child care staff member shall conduct himself or herself in a manner that is conducive to the welfare of children and be able to meet the needs of children and provide for their care, supervision, and protection.

(5) A child care staff member may substitute for the licensee pursuant to R 400.1903(1)(c).

History: 2019 AACS.

Editor's Note: An obvious error in R 400.1904a was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2019 MR 23. The memorandum requesting the correction was published in *Michigan Register*, 2020 MR 1.

R 400.1904b Child care assistant; requirements.

Rule 4b. (1) A child care assistant shall be 14 to 17 years of age.

(2) Prior to contact with children, the individual shall be determined by the department to be eligible to serve as a child care assistant, as required by R 400.1925.

(3) Within 90 days of hire, a child care assistant shall provide the licensee all of the following:

- (a) A valid certification in infant, child, and adult CPR.
- (b) A valid certification in first aid.
- (c) Proof of training in the prevention of infectious disease, including immunizations. Hours of training in the prevention of infectious disease from MiRegistry will be allowed to count for training hours to meet this requirement.
- (4) A child care assistant shall be supervised directly at all times by the licensee or a child care staff member who is present on site and can observe the child care assistant.
- (5) A child care assistant shall conduct himself or herself in a manner that is conducive to the welfare of children.
- (6) A child care assistant shall not substitute for the licensee or a child care staff member.
- (7) A child care assistant shall not drive a vehicle that is transporting children.
- (8) The licensee is responsible for the actions of a child care assistant who has contact with or access to children who are cared for in a child care home.

History: 2019 AACCS.

R 400.1905 Training.

Rule 5. (1) A licensee shall complete not less than 10 clock hours of training each calendar year related to child development, program planning, and administrative management for a child care business, not including CPR, first aid, and infectious disease, including immunizations, training.

(2) A child care staff member and a child care assistant shall complete not less than 5 clock hours of training each calendar year related to child development and caring for children, not including CPR, first aid, and infectious disease, including immunizations, training.

(3) A licensee shall ensure that child care staff members and child care assistants, prior to caring for children, have training that includes information on all of the following:

- (a) Safe sleep practices to prevent sudden infant death syndrome.
- (b) Recognition of and the reporting of child abuse and neglect.
- (c) Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment.

(4) Within 90 days after receiving a child care license or of being hired at a child care home, a licensee, a child care staff member, and a child care assistant shall complete training on all of the following topics:

- (a) Child development.
- (b) Administration of medication.
- (c) Prevention of and response to emergencies due to food and allergic reactions.
- (d) Handling and storage of hazardous materials and the appropriate disposal of bio-contaminants.
- (e) Precautions in transporting children.
- (f) Building and physical premises safety.
- (g) All hazards emergency preparedness and response planning.
- (5) Training hours may include completion of any of the following:

(a) Sessions offered by community groups, faith-based organizations, and child care home associations.

(b) Trainings, workshops, seminars, and conferences on early childhood, child development, or child care administration offered by early childhood organizations.

(c) Workshops and courses offered by local or intermediate school districts, colleges, and universities.

(d) Online courses.

(e) Training and courses offered through MiRegistry.

(6) Completion of the required training must be verified by a document, signed by the trainer or an authorized individual, which must be kept on file or available online at MiRegistry.

(7) CPR and first aid training certification must be maintained according to the expiration dates on the individual's certification cards.

(8) The department may require additional training for violations based on the act or these rules. The additional training may include, but is not limited to, the safe sleep training available on MiRegistry or attending another orientation session conducted by the department.

(9) When the department of licensing and regulatory affairs or the department of education publishes a notice that a new health and safety update document or a new health and safety update training activity has been published on MiRegistry, the licensee shall ensure that all personnel read and acknowledge the document or complete the activity within 6 months of the notice.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1906 Records of a licensee; child care staff member; child care assistant.

Rule 6. (1) A licensee shall maintain a file for each child care staff member and each child care assistant that includes all of the following:

(a) The individual's first and last name, address, telephone number, and date of hire.

(b) Daily records detailing arrival times and departure times at the child care home.

(c) A statement signed by a licensed physician or his or her designee that attests to the individual's mental and physical health, and which must be updated as follows:

(i) For an applicant or licensee, within 1 year before issuance of the initial license and at the time of subsequent renewals.

(ii) For a child care staff member and a child care assistant, within 1 year prior to caring for children and at the time of subsequent renewals of the child care home's license.

(d) Other physician attestations and records as required in R 400.1919.

(e) Training records, as defined in R 400.1905(5), which may also be viewed online at MiRegistry during an on-site inspection.

(f) A completed and signed Michigan Child Care Background Check Consent and Disclosure form as required in R 400.1925.

(g) A written statement, signed and dated by the child care staff member or child care assistant at the time of hiring, indicating all of the following information:

- (i) The individual is aware that abuse and neglect of children is unlawful.
 - (ii) The individual knows that he or she is mandated by law to report child abuse and neglect.
 - (iii) The individual has received a copy of the licensee's discipline policy.
- (2) The records in this rule must be retained for the duration of the individual's employment and a minimum of 4 years after the individual has left the employment of the licensee.

History: 2005 AACCS; 2019 AACCS.

R 400.1907 Child's record.

Rule 7. (1) Prior to a child's initial attendance, a licensee shall obtain the following documents:

(a) A completed child information card on a form provided by the department or a comparable substitute approved by the department.

(b) A child in care statement or receipt using a form provided by the department and signed by the parent certifying all of the following:

(i) Receipt of a written disciplinary policy.

(ii) Condition of the child's health.

(iii) Acknowledgement that the parent has been offered either a copy of the licensing rules for a child care home or has been given the website for an electronic copy of these rules.

(iv) Agreement as to who will provide food for the child.

(v) Acknowledgement that firearms are on the premises, if applicable.

(vi) If the child care home was built prior to 1978, then the licensee shall inform the parents of each child in care and all personnel of the potential presence of lead-based paint or lead dust hazards, unless the licensee maintains documentation from a lead testing professional that the home is lead safe.

(c) Documentation that immunizations and boosters, as recommended by the state department of health and human services, are any of the following:

(i) Have been completed.

(ii) Are in progress.

(iii) Are not being administered due to religious, medical, or other reasons based on a waiver signed by the parent.

(d) If a parent objects to emergency medical treatment on religious grounds, the parent shall provide a signed statement that he or she assumes responsibility for all emergency care.

(2) Records in subrule (1) of this rule must be reviewed and updated annually or when information changes.

(3) Dated daily attendance records of children in care must be maintained and include the child's first and last name and the time of arrival and departure. Electronic records may be used. If electronic records are used, they must be available to the department at the time of the inspection. If electronic attendance records are not available during an on-site inspection, the child care home is in violation of this rule.

(4) Children's records required by the department must be immediately accessible and stored in a location known to all personnel.

(5) The records in this rule must be retained for a minimum of 4 years from the date a child is no longer being cared for in the child care home.

History: 2005 AACS; 2009 AACS; 2019 AACS.

R 400.1908 Capacity.

Rule 8. (1) The licensee shall ensure that the actual number of unrelated children in care at any 1 time does not exceed the number of children for which the child care home is licensed, not more than 6 children for a family child care home and not more than 12 children for a group child care home.

(2) This rule is not subject to the variance specified in R 400.1963.

History: 2005 AACS; 2019 AACS.

R 400.1909 Concurrent licensing.

Rule 9. (1) A licensee who is concurrently licensed as a children's foster home provider shall so inform the parents of the children in care.

(2) A licensee who provides care for both child care and foster care children shall not care for more than 12 children, including all of the following:

(a) Children who are under 17 years of age and who are related to the licensee by blood, marriage, adoption, or legal guardianship.

(b) The capacity of foster children identified on the foster care license.

(c) All other children who are cared for on a part-time or full-time basis.

(3) A licensee shall notify the department when applying for a foster care license.

(4) The department has the right to refuse concurrent licensing for child care if the health and safety of child care children could be at risk.

History: 2005 AACS; 2019 AACS.

R 400.1910 Ratio of personnel to children.

Rule 10. (1) The ratio of personnel to children present in the home at any 1 time must be not less than 1 member of the personnel to 6 children. The ratio must include all children in care who are not related to any personnel and any of the following children who are less than 6 years of age:

(a) Children of the licensee.

(b) Children of a child care staff member or child care assistant.

(c) Children related to any member of the household by blood, marriage, or adoption.

(2) For each member of the personnel, not more than 4 children shall be under the age of 30 months, with not more than 2 of the 4 children under the age of 18 months.

History: 2005 AACS; 2019 AACS.

R 400.1911 Care; supervision; children.

Rule 11. (1) A licensee shall ensure appropriate care and supervision of children at all times.

(2) A licensee or a child care staff member shall be present in the home at all times when children are in care.

(3) A licensee and child care staff members shall be up and awake at all times when children are in care, except as provided in R 400.1922(2) of these rules.

(4) A licensee and child care staff members shall know the location of each child at all times.

(5) A licensee and child care staff members shall never leave a child unattended or with a minor in a vehicle.

(6) A licensee or child care staff member shall at all times directly supervise children who are engaged in water activities or are near collections or bodies of water.

History: 2005 AACCS; 2019 AACCS 2019.

R 400.1912 Infant; child; resting; sleeping; supervision.

Rule 12. (1) Infants, birth to 12 months of age, shall be placed on their backs for resting and sleeping.

(2) Infants unable to roll from their stomachs to their backs, and from their backs to their stomachs, shall be placed on their backs when found in any other position.

(3) When infants can easily turn over from their stomachs to their backs and from their backs to their stomachs, they shall be initially placed on their backs, but allowed to adopt whatever position they prefer for sleeping.

(4) If a child has a health issue or a special need that requires the child sleep in an alternate position or in something other than a crib, porta-crib, or play yard for infants and toddlers, or cot or mat for toddlers, documentation from the child's health care provider is required. The documentation must include specific sleeping instructions and time frames for how long the child needs to sleep in this manner and include an anticipated end date.

(5) Personnel shall maintain supervision and monitor infants' breathing, sleep position, bedding, and possible signs of distress, except as provided in R 400.1922.

(6) Video surveillance equipment and baby monitors must not be used in place of subrule (5) of this rule.

History: 2005 AACCS; 2019 AACCS.

R 400.1913 Discipline; child handling.

Rule 13. (1) A licensee shall develop and have on file a written policy regarding the discipline of children.

(2) Developmentally appropriate positive methods of discipline that encourage self-control, self-direction, self-esteem, and cooperation must be used.

(3) Personnel shall not do any of the following:

- (a) Hit, spank, shake, bite, pinch, or inflict other forms of corporal punishment.
 - (b) Use any substance in a child's mouth such as, but not limited to, soap, hot sauce, or vinegar.
 - (c) Restrict a child's movement by binding or tying him or her.
 - (d) Inflict mental or emotional stress, such as humiliating, shaming, threatening a child, or using derogatory remarks.
 - (e) Deprive a child of meals, snacks, rest, or necessary toilet use.
 - (f) Confine a child in an enclosed area such as a closet, locked room, box, or similar enclosure.
 - (g) Use time out for children under 3 years old.
- (4) Reasonably appropriate discipline or restraint may be used to prevent a child from harming himself or herself, or to prevent a child from harming other persons or property, or to allow a child to gain control of himself or herself excluding those forms of punishment prohibited by subrule (3) of this rule.
- (5) This rule is not subject to the variance specified in R 400.1963.

History: 2005 AACCS; 2019 AACCS.

R 400.1914 Daily activity program.

Rule 14. (1) Personnel shall engage in positive interactions with children. For infants and toddlers, interactions may include, but are not limited to, all of the following:

(a) Nurturing contact, such as talking to, holding, rocking, cuddling, and giving eye contact throughout the day and during daily routines such as feeding and diapering.

(b) Promptly responding to a child's cries and other signs of distress.

(2) A licensee shall plan daily activities so that each child may do any of the following:

(a) Develop and use language.

(b) Develop and use large and small muscles.

(c) Use materials and take part in activities that encourage creativity.

(d) Learn new ideas and skills.

(e) Participate in imaginative play.

(f) Rest, sleep, or both.

(3) All of the following developmentally appropriate opportunities must be provided daily:

(a) A balance of active and quiet play, group and individual activities.

(b) Indoor and outdoor play, except during inclement or extreme weather, or unless otherwise ordered by a health care provider.

(c) Early language and literacy experiences throughout the day accumulating for not less than 30 minutes.

(d) Early math and science experiences.

(4) Television, video tapes, movies, electronic devices, and computers must be limited to not more than 2 hours per day and to programs designed for children's education, enjoyment, or both. Other activities must be available to children during television and movie viewing.

(5) Programs and movies with violent or adult content, including soap operas, must not be permitted in child-use space while children are in care.

(6) The use of television, video tapes, movies, electronic devices, and computers by children in care must be suitable to the age of the child in terms of content and length of use.

(7) For children with special needs, a licensee shall work with the parents, medical personnel, or other relevant professionals to provide care in accordance with the child's identified needs and learning supports.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1915 Indoor space; play equipment and materials.

Rule 15. (1) A child care home shall provide not less than 35 square feet per child of safe, usable, accessible indoor floor space, not including bathrooms and storage areas.

(2) Only space that has received prior approval for child use by the department may be used for child care.

(3) A variety of easily accessible activity choices must be available to a child that are safe and appropriate for a child at his or her stage of development. The number of choices must be based on the number of children who are permitted to attend the licensed child care home. All of the following apply to activity choices available:

(a) Materials may include, but are not limited to, any of the following:

(i) Books.

(ii) Art supplies.

(iii) Blocks and accessories.

(iv) Large muscle equipment.

(v) Manipulative toys.

(vi) Musical equipment.

(vii) Dramatic play materials.

(b) All materials and equipment must be kept clean, free of hazards, and in good repair.

(c) Toys and other play equipment soiled by secretion or excretion must be cleaned with soap and water, rinsed, and sanitized before being used by a child.

(4) A licensee shall not use any equipment, materials, or furnishings recalled or identified by the U.S. Consumer Product Safety Commission as being hazardous. These products are identified on the commission's website at <http://www.cpsc.gov>.

(5) As required by section 15 of the children's product safety act, 2000 PA 219, MCL 722.1065, a licensee shall conspicuously post in the child care home an updated copy of the list of recalled or unsafe children's products that is provided by the department through its Michigan Child Care Matters (MCCM) online newsletter and available at the department's website www.michigan.gov/mccmatters.

(6) All children shall be protected from materials that could be swallowed or present a choking hazard. Toys or objects with removable parts less than 1 ¼ inches in diameter and less than 2 ¼ inches in length, as well as balls smaller than 1 ¾ inches in diameter are prohibited for children under 3 years of age.

(7) Trampolines and bounce houses must not be used indoors by children in care.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1916 Bedding and sleeping equipment.

Rule 16. (1) All bedding and sleeping equipment must be in accordance with U.S. Consumer Product Safety Commission standards as approved for the age of the child using the equipment and must be clean, comfortable, safe, and in good repair. The standards are available at <http://www.cpsc.gov>.

(2) All bedding and sleeping equipment must be cleaned before being used by another child.

(3) All bedding used by children must be washed when soiled and weekly at a minimum.

(4) All cribs, play yards, or porta-cribs must be equipped with a firm, tight-fitting mattress with a waterproof, washable covering, as recommended and approved by the U.S. Consumer Product Safety Commission.

(5) Play yard mattresses must be purchased from the manufacturer of the play yard and be manufactured after February 19, 2014. Play yards must meet the Consumer Product Safety Commission safety standards for play yards, 16 CFR part 1221 (2019). Licensees shall comply with this subrule by December 31, 2019. These standards are available at <http://www.cpsc.gov>. They are also available for inspection and distribution at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Licensing Division, 611 W Ottawa, Lansing, MI 48933-1070.

(6) Infants, birth to 12 months of age, shall rest or sleep alone in an approved crib, play yard, or porta-crib. This equipment must meet all of the following requirements:

(a) Cribs, porta-cribs and play yards must comply with the product safety standards issued by the Consumer Product Safety Commission, 16 CFR 1219 (2019), 16 CFR 1220 (2019), and 16 CFR 1221 (2019), which are available at <http://www.cpsc.gov>. These standards are also available for inspection and distribution at the Michigan Department of Licensing and Regulatory Affairs, Bureau of Community and Health Systems, Child Care Licensing Division, 611 W Ottawa, Lansing, MI 48933-1070.

(b) A tightly fitted or snug bottom sheet must cover the crib or porta-crib mattress with no additional padding placed between the sheet and the mattress.

(c) Stacking cribs must not be used.

(7) An infant's head shall remain uncovered during sleep.

(8) Soft objects, bumper pads, stuffed toys, blankets, quilts or comforters, pillows, and other objects that could smother an infant must not be placed with, under, or within reach of a resting or sleeping infant.

(9) An infant who is less than 2 months of age may be swaddled with a sleeping sack swaddle attachment.

(10) If an infant who is older than 2 months of age has a health issue or special need that requires the child to use a sleeping sack swaddle attachment, documentation of this health issue or special need from the child's health care provider is required. This documentation must include specific sleeping instructions and time frames for how long the child needs to sleep in this manner, including an end date.

(11) Blankets must not be draped over cribs, porta-cribs, or play yards while they are in use.

(12) Children 12 to 24 months of age shall rest or sleep alone in an approved crib, porta-crib, play yard, or on a cot or mat sufficient for the child's length, size, and movement.

(13) None of the following are approved sleeping equipment for children 24 months of age or younger:

- (a) Infant car seats.
- (b) Infant seats.
- (c) Infant swings.
- (d) Bassinets.
- (e) High chairs.
- (f) Water beds.
- (g) Adult beds.
- (h) Soft mattresses.
- (i) Sofas.
- (j) Bean bags.
- (k) Other soft surfaces.

(14) Children 24 months of age or younger who fall asleep in a space that is not approved for sleeping shall be moved to approved sleeping equipment appropriate for their size and age.

(15) Children over 24 months of age shall have an individual, age appropriate, clean, comfortable, and safe place to sleep or rest. The floor may be used only when padded, warm, and free from drafts and when there is a mat, sleeping bag, blanket, or similar piece of bedding between the floor and the child.

History: 2005 AACS; 2009 AACS; 2019 AACS.

R 400.1917 Telephone.

Rule 17. (1) Personnel shall have immediate access to an operable telephone within the child care home at all times.

(2) The telephone number must be made available to the department, personnel, and parents.

(3) The licensee shall inform the department, personnel, and parents of any change in telephone number.

History: 2005 AACS; 2009 AACS; 2019 AACS.

R 400.1918 Medication; administration; procedures.

Rule 18. (1) Medication, prescription or nonprescription, must be given to a child in care by a licensee or a child care staff member only. A child care assistant shall not give medication to a child in care.

(2) Medication, prescription or nonprescription, must be given or applied only with prior written permission from a parent.

(3) All medication must be in the original container, stored according to instructions, and clearly labeled for a named child.

(4) Prescription medication must have the pharmacy label indicating the physician's name, child's first and last name, instructions, and name and strength of the medication, and must be given in accordance with those instructions.

(5) All medication must be kept out of the reach of children and returned to the child's parent when he or she determines it is no longer needed or when it has expired.

(6) A licensee or child care staff member shall give or apply prescription or non-prescription medication according to the directions on the original container unless otherwise authorized by a written order of the child's physician.

(7) A record of the date, time, and the amount of all medication given or applied must be maintained on a form provided by the department or a comparable substitute approved by the department.

(8) Topical nonprescription medication, including but not limited to sunscreen, insect repellent, and diaper rash ointment, is exempt from subrules (1) and (7) of this rule.

(9) The records required in this rule must be retained for a minimum of 4 years.

History: 2005 AACCS; 2019 AACCS.

R 400.1919 Communicable disease; immunization; mental and physical health; physician attestation; tuberculosis.

Rule 19. (1) An applicant shall obtain a written statement, signed by a licensed physician or his or her designee within 1 year before issuance of the initial license, that attests to the applicant's mental and physical health. The attestation must be renewed at the time of subsequent license renewals.

(2) A licensee shall obtain from a child care staff member and a child care assistant a written statement, signed by a licensed physician or his or her designee within 1 year prior to caring for children, that attests to the child care staff member's or child care assistant's mental and physical health. The attestation must be renewed at the time of subsequent renewals of the child care home's license.

(3) An applicant, licensee, child care staff member, child care assistant, and a member of the household who is age 14 or older shall provide written evidence of freedom from communicable tuberculosis (TB) prior to caring for children or living in the child care home.

(4) An individual who lives in a child care home or who cares for children in a child care home, who has a suspected or confirmed case of a communicable disease, shall not come into contact with children in the home's care. Communicable disease includes, but is not limited to, any of the following:

- (a) Tuberculosis.
- (b) Influenza.
- (c) Measles.
- (d) Whooping cough.
- (e) Strep throat.
- (f) Scarlet fever.
- (g) Chicken pox.

(5) If immunizations, as recommended by the state department of health and human services, have not been given or completed for all minors who live in the child care

home, then the licensee shall inform the parent of each child in care at the home and all personnel.

(6) The documents required in this rule must be retained by the licensee for a minimum of 4 years from the date the individual no longer resides in or cares for children in the child care home.

History: 2005 AACCS; 2019 AACCS.

R 400.1920 Outdoor play area and equipment.

Rule 20. (1) A child care home shall provide a clean, safe, and hazard free outdoor play area, on the premises or within a reasonable walking distance of the home.

(2) The play area size must be 1 of the following:

(a) Not less than 400 square feet for a family child care home.

(b) Not less than 600 square feet for a group child care home.

(3) A licensee shall provide an adequate and varied supply of outdoor play equipment, materials, and furniture, that is all of the following:

(a) Appropriate to the developmental needs and interests of children.

(b) Appropriate to the number of children.

(c) Safe and in good repair.

(4) The outdoor play area and equipment must be organized to meet all of the following requirements:

(a) To separate active and quiet activities.

(b) For a clear and unobstructed view of the whole play area.

(c) To ensure that there are safe distances between equipment.

(5) When swings, climbers, slides, and other similar play equipment with a designated play surface above 30 inches are used, they must:

(a) Not be placed over concrete, asphalt, or a similar surface, such as hard-packed dirt or grass.

(b) Be safe, in good repair, and age-appropriate.

(c) Be placed at least 6 feet from the perimeter of other play structures or obstacles.

(6) Trampolines must not be used outdoors by children in care.

(7) Bounce houses are permissible outdoors with direct supervision by a licensee or child care staff member, and pursuant to the manufacturer's recommendations.

(8) Children in care shall not be permitted to ride all-terrain vehicles, motor bikes, go-carts, recreational, or other motorized vehicles.

History: 2005 AACCS; 2019 AACCS.

R 400.1921 Water hazards; water activities.

Rule 21. (1) A licensee shall ensure that barriers exist to prevent children from gaining access to any swimming pool, drainage ditch, well, natural or constructed pond, or other body of open water located on or adjacent to the property where the child care home is located. These barriers must be a minimum of 4 feet in height and appropriately secured to prevent children from gaining access to such areas.

- (2) A hot tub or spa pool must not be used when children are in care.
- (3) A hot tub or spa pool, whether indoors or outdoors, must be made inaccessible to children in care by the use of a locked hard cover.
- (4) A wading pool may be used when all of the following requirements are met:
 - (a) It is clean and free of debris.
 - (b) It is emptied and cleaned after each play period or immediately when it becomes dirty or contaminated.
 - (c) It remains empty at all times when not in use.
- (5) Before use of a residential pool or any other body of water by children in care, a licensee shall ensure that the water is clean, safe, and sanitary, and that the children will be appropriately and adequately supervised.
- (6) Public swimming areas may be used only if a lifeguard is present.
- (7) If there are 2 groups of children, 1 group in the water and 1 group out of the water, then the personnel to child ratios, as required in R 400.1910, must be maintained for each group, with the exception that the personnel to child ratio for children under 3 years of age who are in the water must be 1-to-1 at all times.
- (8) Rescue equipment must be readily accessible at all times.
- (9) A working telephone must be immediately accessible in the water activity area.
- (10) A licensee shall obtain and keep on file written permission from a child's parent for the child's participation in either of the following:
 - (a) Before each outdoor water activity at a swimming pool, lake, or other body of water off the child care home premises.
 - (b) Once per season for water activities occurring on the child care home premises.
- (11) The emergency plan in R 400.1945 must include procedures for water emergencies.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1922 Nighttime care.

- Rule 22. (1) In a home where children are in care between the hours of midnight and 5 a.m., not more than 2 adjoining floor levels may be used at any 1 time to sleep children.
- (2) If child care staff members and children in care are sleeping, then at least 1 child care staff member shall be on the same floor level as the sleeping children.
 - (3) Homes shall not use a third or higher floor as a resting or sleeping area for children in care unless there are 2 stairways to ground level.
 - (4) If nighttime care is provided, then children shall sleep in age appropriate cribs and beds. Port-a-cribs and play yards are not allowed for nighttime care.

History: 2005 AACCS; 2019 AACCS.

R 400.1923 Diapering and toilet learning.

- Rule 23. (1) Diapering of infants and toddlers shall only occur in a designated changing area.
- (2) The designated changing area must comply with all of the following:

- (a) Be used exclusively for changing wet or soiled diapers or underwear.
 - (b) Be located away from food preparation and meal service areas.
 - (c) Have access to a hand washing sink that is not used for food preparation.
 - (d) Have a nonabsorbent, easily sanitized surface with a changing pad between the child and the surface.
 - (e) Be cleaned and sanitized after each use.
 - (f) Have diapering and changing supplies within easy reach.
 - (g) Have a plastic-lined, tightly covered container that is used exclusively for disposable diapers and diapering supplies that must be emptied and sanitized at the end of each day.
- (3) Diapers or training pants must be changed when wet or soiled.
- (4) Only single use disposable wipes or other single use cleaning cloths must be used to clean a child during the diapering or toileting process.
- (5) All of the following requirements apply when cloth diapers or training pants are used:
- (a) Each cloth diaper must be covered with an outer waterproof covering. Outer coverings must be removed as a singular unit with wet or soiled diapers or training pants.
 - (b) Diapers, training pants, and outer coverings must not be reused until machine washed and sanitized.
 - (c) No rinsing of the contents may occur at the child care home.
 - (d) Soiled diapers must be placed in a plastic-lined, covered container used only for that child's soiled diapers.
 - (e) Soiled diapers or training pants must be stored and handled in a manner that will not contaminate any other items and must not be accessible to children.
 - (f) A child's parent shall remove soiled diapers or training pants from the child care home every day.
 - (g) A child's supply of clean diapers or training pants must be used only for that child.
- (6) Toilet learning must be planned cooperatively between the parent and the licensee so the toilet routine established is consistent.
- (7) If toilet learning equipment such as potty chairs and modified toilet seats, are used, then both of the following apply:
- (a) They must be able to be easily cleaned and sanitized.
 - (b) Potty chairs must be emptied, rinsed, and sanitized after each use.
- (8) If disposable gloves are used, then they must only be used once for a specific child and must be removed and disposed of in a safe and sanitary manner immediately after each diaper change.

History: 2005 AACCS; 2019 AACCS.

R 400.1924 Hand washing.

Rule 24. (1) All personnel shall wash their hands appropriately and in the following manner:

- (a) Before and after all of the following:
 - (i) Preparing and serving food, eating, and feeding.
 - (ii) Giving medication.

- (b) After all of the following:
 - (i) Diapering.
 - (ii) Using the toilet or helping a child use the toilet.
 - (iii) Handling bodily fluids, such as mucus, blood, vomit, from sneezing, wiping, and blowing noses, from mouths, or from sores.
 - (iv) Handling animals and pets.
 - (v) Cleaning or handling garbage.
- (2) Personnel shall ensure that children wash their hands at all of the following times:
 - (a) Before and after meals, snacks, or food preparation experiences.
 - (b) After toileting or diapering.
 - (c) After contact with any bodily fluids.
 - (d) After playing in sand or water.
 - (e) After handling animals and pets.
 - (f) When soiled.
- (3) Hand sanitizers and wipes may be used as a temporary measure during outings, such as field trips and outdoor activities, until soap and running water are available.
- (4) When an infant is too heavy to hold for handwashing, cannot stand safely to wash hands at a sink, is not developmentally ready to hold head, and for children with special needs who are not capable of washing their own hands, staff may wash the child's hands with non-toxic disposable wipes.

History: 2005 AACCS; 2019 AACCS.

R 400.1925 Comprehensive background check; fingerprinting.

Rule 25. (1) Pursuant to sections 5n and 5q of the act, MCL 722.115n and 722.115q, prior to an individual having any unsupervised contact with children, the department shall determine the individual's eligibility to be any of the following:

- (a) A licensee.
 - (b) An adult member of the household.
 - (c) A child care assistant.
 - (d) A child care staff member.
 - (e) An unsupervised volunteer.
- (2) An applicant or licensee shall do all of the following:
- (a) Ensure that each individual who requires an eligibility determination pursuant to subrule (1) of this rule completes, signs, and submits all of the information required in subrule (5) of this rule, and in subrule (6) of this rule if applicable, on a form prescribed by the department. The forms are available on the department's website for the child care background check system, www.michigan.gov/ccbc. The form(s) must be signed and dated prior to the individual's appointment to be fingerprinted.
 - (b) Maintain a copy of the completed and signed form(s) for each individual entered into the child care background check system under the license.
 - (c) Provide to the department, upon request, a copy of the individual's completed and signed form(s).
 - (d) Establish and activate an account and accurately enroll each individual listed in subrule (1) in the child care background check system.

(e) Within the department's child care background check system, accurately complete and maintain the connection, disconnection, or withdrawn status of each individual associated with the license.

(f) Immediately disconnect each individual from the system once he or she is no longer a licensee, adult member of the household, child care assistant, child care staff member, or an unsupervised volunteer under the license.

(3) An individual may serve as a child care staff member pending an eligibility determination by the department, in accordance with section 5n(8) of the act, MCL 722.115n(8), and shall be supervised at all times by the licensee or a child care staff member who has been determined eligible.

(4) For an individual who is determined ineligible by the department, a licensee shall immediately do all of the following:

(a) Prohibit the individual from being on the premises of the child care home.

(b) Prohibit the individual from having any contact with children in care.

(c) Disconnect the individual from the child care background check system.

(5) An individual who requires a comprehensive background check pursuant to sections 5n and 5q of the act, MCL 722.115n and 722.115q, shall submit to the department, on a form prescribed by the department, all personally identifiable information necessary to conduct the comprehensive background check, including all of the following:

(a) Full legal name.

(b) All other names used in the past, including any maiden name or alias, the approximate date the other name was used, and the reason for the name change.

(c) Suffix, if applicable.

(d) Social Security number.

(e) Date of birth.

(f) Place of birth.

(g) Country of citizenship.

(h) Height.

(i) Weight.

(j) Hair color.

(k) Eye color.

(l) Sex.

(m) Race.

(n) Current address.

(o) If the individual resided outside the state of Michigan during the last 5 years, then provide each of those addresses.

(p) Driver's license identification number and state issuing the license or a state identification number and state issuing it, if available.

(q) Phone number.

(r) Email address, if available.

(s) Any other information deemed reasonably necessary by the department to determine the eligibility of the individual based on a name-based registry match.

(6) The department shall maintain the confidentiality of all personally identifiable information submitted pursuant to this rule to the extent permitted by law.

History: 2019 AACS.

Editor's Note: An obvious error in R 400.1925 was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in *Michigan Register*, 2019 MR 23. The memorandum requesting the correction was published in *Michigan Register*, 2020 MR 1.

R 400.1926 Conducive to the welfare of children.

Rule 26. (1) In carrying-out its duties under section 5m of the act, MCL 722.115m, to determine whether or not a service, facility, applicant, licensee, child care staff member, child care assistant, or member of the household is conducive to the welfare of preschool or school-age children, the department shall deem any of the following behaviors as not conducive to the welfare of children: possession or use of alcohol, tobacco products, marihuana and, except as provided in subrule (2) of this rule, any controlled substance in a child-use area, or on the premises of a child care home while children are in care.

(2) The exception to subrule (1) of this rule is the possession or use of a controlled substance outside of child-use space that is prescribed to the individual, and which does not impair the individual's ability to supervise, care, and protect children, and the medication is stored in a secure manner that is not accessible to children.

History: 2019 AACCS.

R 400.1931 Food preparation and service.

Rule 31. (1) A licensee shall ensure that all of the following requirements are met:

(a) Each child shall be provided with nutritional and sufficient food pursuant to the minimum meal requirements of the child care food program, as administered by the Michigan department of education. These minimum meal requirements are based on the dietary guidelines for Americans made by the National Academy of Medicine, which are available at <https://www.fns.usda.gov/cacfp/meals-and-snacks>. This subrule does not apply to children whose parents provide their food.

(b) Children shall be offered food at intervals as individually appropriate, but not to exceed more than 4 hours unless the child is asleep.

(c) Drinking water must be available at all times.

(2) A licensee shall ensure that food is prepared, served, and stored in a safe and sanitary manner by meeting all of the following requirements:

(a) Food served to children individually or family style must be discarded at the end of the meal if not eaten.

(b) Prepared food that has not been served to individuals or placed in family-style containers must be properly cooled, if applicable, then promptly covered and stored appropriately.

(c) Children under 3 years of age shall not be served or allowed to eat foods that could easily cause choking including, but not limited to, popcorn and uncut round foods such as grapes, seeds, nuts, hard candy, and hot dogs.

(3) If a parent has agreed to provide the food, then the licensee shall have a written agreement with the parent and shall be responsible for providing adequate food if the parent does not.

(4) Food brought by parents must be labeled with the child's first and last name and, if perishable, be refrigerated, and be fed only to the child for whom the item is labeled.

(5) A licensee shall inform parents if home canned foods are served.

(6) Unpasteurized products must not be used.

(7) Children shall be encouraged to taste new foods, but shall not be required to eat anything they do not want.

(8) Bottles used for feeding must be labeled with the child's first and last name and date, refrigerated, and served only to the child on the label.

(9) Warming bottles and beverage containers in a microwave oven or a slow cooker is prohibited.

(10) Bottle warmers must be placed where children cannot access them or reach the cords for the warmers.

(11) Bottle warmers must be shut off when not in use.

(12) The contents of a bottle that has been used for feeding for a period that exceeds 1 hour from the beginning of the feeding, or has been unrefrigerated for 1 hour or more must be discarded.

(13) Children shall not have beverage or food containers when they are in bed or when they are walking around or playing.

(14) The propping of bottles is prohibited.

(15) Breastfeeding must be supported by making reasonable accommodations for a mother who chooses to breastfeed her child at the child care home.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1932 Home maintenance and safety.

Rule 32. (1) The structure, premises, and furnishings of a child care home must be in good repair and maintained in a clean, safe, and comfortable condition.

(2) All dangerous and hazardous materials or items must be stored securely and out of the reach of children.

(3) All steps, stairs, porches, and elevated structures to which children in care have access must be protected to prevent falls, and must be free of ice and snow accumulation.

(4) A handrail is required for 3 or more steps, or a total rise of 24 inches or more.

(5) Parents shall be notified before pesticide or fertilizer treatments.

(6) There must be no flaking or deteriorating paint on interior and exterior surfaces, equipment, and toys accessible to children.

(7) If the child care home was built prior to 1978, then the licensee shall inform parents of each child in care and all personnel, in writing, prior to any remodeling, renovating or re-painting that could potentially disturb lead-based paint or produce lead dust. Providers are encouraged to use EPA Renovation, Repair and Painting (RRP) trained and certified individuals when remodeling child care areas to ensure lead safety for their children in care.

(8) Open-flame devices and candles must not be used, except for birthdays or religious celebrations, and they must be inaccessible to children and extinguished when done.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1933 Water supply; sewage disposal; water temperature.

Rule 33. (1) The water supply must be from a municipal water supply or an onsite well approved by the local health department.

(2) All sewage must be disposed of through a public system or, in the absence thereof, in a manner approved by the local health department.

(3) A child care home shall have a minimum of 1 flush toilet and 1 handwashing sink with hot and cold running water.

(4) Hot water temperature must not exceed 120 degrees Fahrenheit at water faucets accessible to children.

History: 2005 AACS; 2019 AACS.

R 400.1934 Heating; ventilation; lighting; radon.

Rule 34. (1) Each room that is used by children in care must have adequate ventilation and be maintained at a safe and comfortable temperature so children do not become overheated, chilled, or cold. Both of the following apply:

(a) The temperature must be not less than 65 degrees Fahrenheit at a point 2 feet above the floor.

(b) Measures must be taken to cool the children when the temperature exceeds 82 degrees Fahrenheit.

(2) Windows and doors that are used for ventilation must be screened and in good repair.

(3) A carbon monoxide detector, bearing a safety certification mark of a recognized testing laboratory, such as UL (Underwriters Laboratories) or ETL (Electrotechnical Laboratory), must be placed on all levels approved for child care.

(4) A licensee shall test the child care home for the concentration of radon gas before the initial license is issued and every 4 years thereafter at the time of license renewal.

(5) The lowest level of the child care home must not have levels of radon gases that exceed 4 picocuries per liter of air, except as provided in subrule (6) of this rule. Documentation of the results must be kept on file in the child care home.

(6) If the levels of radon gases exceed 4 picocuries per liter of air in the lowest level of the child care home, the licensee shall notify the parents of children in care and have a radon mitigation system installed. The licensee has up to 12 months from the date of the first measurement to meet the standard in subrule (5) of this rule.

(7) All child-use areas must have adequate natural or artificial lighting.

History: 2005 AACS; 2009 AACS; 2019 AACS.

R 400.1935 Firearms.

Rule 35. (1) All firearms must be unloaded and properly stored in a secure, safe, locked environment inaccessible to children during hours of operation or while children are in care at a child care home. A secure and locked environment means a locked

commercial gun safe, or a trigger lock installed and locked according to the manufacturer's recommendations to prevent discharge.

(2) Ammunition must be stored in a separate locked location inaccessible to children during hours of operation or while children are in care at a child care home.

(3) Firearms must not be traded or sold on the premises during hours of operation or while children are in care.

(4) Law enforcement officers who are required to keep their firearms loaded and ready for use at all times, may do so, as long as the firearm is inaccessible to children.

History: 2005 AACCS; 2019 AACCS.

R 400.1936 Animals and pets.

Rule 36. (1) A licensee shall notify parents of any animals and pets in the home.

(2) Animals and pets that are potentially aggressive or in poor health shall be separated from children in care at all times.

(3) Children having contact with animals and pets shall be supervised by a child care staff member who is physically close enough to remove a child immediately if the animal shows signs of distress or the child shows signs of treating the animal inappropriately.

(4) Animals and pets shall not be allowed in food preparation and eating areas during meal or snack time.

(5) Litter boxes, pet food, pet dishes, and pet toys must be inaccessible to children.

History: 2005 AACCS; 2019 AACCS.

R 400.1941 Heat-producing equipment.

Rule 41. (1) All flame-producing and heat-producing equipment must be maintained in a safe condition and shielded to protect against burns. This subrule applies to all of the following:

- (a) A furnace.
- (b) A water heater.
- (c) A fireplace.
- (d) A radiator and pipes.
- (e) Wood burning equipment.

(2) Combustible materials and equipment must not be stored within 4 feet of furnaces, other flame or heat-producing equipment, or fuel-fired water heaters.

(3) Portable heating devices must not be used when children are in care.

(4) Furnaces, other flame or heat-producing equipment used to heat the home when children are in care, and fuel-fired water heaters must be inspected by 1 of the following entities:

- (a) A licensed heating contractor for a fuel-fired furnace.
- (b) A licensed heating contractor or licensed plumbing contractor for a fuel-fired water heater.

(c) A mechanical inspector for the local jurisdiction or licensed mechanical inspector for a wood stove or other solid fuel appliance.

(5) The inspection specified in subrule (4) of this rule must be conducted before the initial license is issued and every 4 years thereafter at the time of license renewal.

(6) For outdoor wood stoves or open-air wood boilers, the initial installation inspection by a local heating or mechanical inspector shall meet the requirements of this rule.

History: 2005 AACCS; 2009 AACCS 2019 AACCS.

R 400.1942 Electrical service; maintenance.

Rule 42. (1) The electrical service of a child care home must be maintained in a safe condition. When warranted, an electrical inspection by an electrical inspecting authority may be required.

(2) All electrical outlets, including outlets on multiple outlet devices, accessible to children must have safety covers or be tamper resistant outlets.

(3) Electrical cords must be arranged so they are not hazardous to children.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1943 Exit requirements for each floor level used by children.

Rule 43. (1) A child care home shall have at least 2 remotely located exits for every floor level occupied by children.

(2) At least 1 exit from each floor level must provide a direct, safe means of unobstructed travel to the outside at street or ground level.

(3) A window may be used as a second exit if it complies with all of the following provisions:

(a) Is accessible to children and personnel.

(b) Is clearly identified.

(c) Can be readily opened.

(d) Is of a size and design to allow for the evacuation of all children and personnel.

(4) If a level of a home that is above the second floor is used for children in care, then the building must be of 1-hour-fire-resistive construction and must have 2 stairways to ground level. At least 1 of the required stairways and all other vertical openings must be enclosed by, at a minimum, 1-hour-fire-resistive construction to provide a protected means of egress direct to the outside at ground level.

(5) All exits must be unobstructed and accessible at all times.

(6) The means of egress must be adequately lit at all times that children are in care.

(7) Doors located in a required path of escape must be readily openable from the side of egress without the use of a key or special knowledge. Double cylinder locks, key-operated locks, and similar devices are not allowed on any door in a required path of escape.

(8) Interior door hardware must be designed to allow opening from the outside during an emergency if locked.

(9) All closet door latches must be of the design so that children can open the door from inside the closet.

(10) A room or space, including an attic, that is accessible only by a ladder or folding stairway or through a trapdoor must not be used by children in care.

(11) For a basement window exit that is over 44 inches above floor level and approved prior to January 1, 2006, only steps and platforms must be used to access the window exit, and they must be permanently secured to the wall or floor. Ladders must not be used as a means for exiting.

(12) An emergency escape window to the outside is required for basements approved for child use after January 1, 2006. All of the following provisions apply:

(a) The total unobstructed window area for egress must be at least 5 square feet.

(b) The unobstructed opening must be at least 20 inches wide.

(c) The unobstructed opening must be at least 24 inches high.

(d) The bottom of the opening must be not more than 44 inches above the floor.

(e) If the sill height is below grade, then it must open into a window well with at least 9 square feet of area, 3 feet in length and 3 feet in width. The area of the window well must allow the emergency escape window to be fully opened. If the well depth is over 44 inches, then it must have permanently affixed steps that are approved by the local building inspector.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1944 Smoke detectors; fire extinguishers.

Rule 44. (1) Operable smoke detectors approved by a nationally recognized testing laboratory must be installed and maintained on each floor of the home, including the basement, and in all sleeping areas and bedrooms used by children in care.

(2) Heat detectors may be utilized in kitchens.

(3) A home shall have at least 1 functioning multipurpose fire extinguisher, with a rating of 2A-10BC or larger, properly mounted not higher than 5 feet from the floor to the top of the fire extinguisher, on each floor level approved for child use.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1945 Emergency; plan; drill.

Rule 45. (1) An applicant or licensee shall have a written emergency response plan for the care of children that must be posted in a conspicuous location within the child care home. The plan must address the following types of emergencies:

(a) Fire evacuation.

(b) Tornado watches and warnings.

(c) Serious accident or injury.

(d) Water emergencies, if applicable.

(e) Crisis management including, but not limited to, all of the following:

(i) Intruders.

(ii) Active shooters.

(iii) Bomb threats.

(iv) Other man- or woman-caused events.

(2) The written plan must include all of the following:

- (a) A plan for evacuation.
 - (b) A plan for safely moving children to a relocation site.
 - (c) A plan for shelter-in-place.
 - (d) A plan for lockdown.
 - (e) A plan for contacting parents and reuniting families.
 - (f) A plan for continuing operations during or after a disaster.
 - (g) A plan for how infants and toddlers will be accommodated in all types of emergencies.
 - (h) A plan for how children with special needs will be accommodated in all types of emergencies.
 - (i) A plan for how children with chronic medical conditions will be accommodated in all types of emergencies.
- (3) A licensee shall inform all personnel of the overall emergency response plan and of his or her individual duties and responsibilities in the event of an emergency specified in subrule (1) of this rule.
- (4) Fire drills must be practiced while children are in care at least once quarterly, and a written record that includes the date and time it takes to evacuate must be maintained.
- (5) At least 2 tornado drills must be practiced while children are in care between March and November, and a written record of these drills that includes the date must be maintained.
- (6) Smoke detectors must be used as the alarm for fire drills.
- (7) The records required in this rule must be retained for a minimum of 4 years.

History: 2005 AACS; 2019 AACS.

R 400.1951 Transportation.

- Rule 51. (1) A vehicle used to transport children in care must be maintained in a good, safe working condition.
- (2) A licensee shall ensure that the driver of a vehicle transporting children is an adult, who has a valid driver's license, valid vehicle registration, and proof of current automobile insurance.
- (3) A licensee shall notify the parents in advance when drivers other than child care staff members are used to transport children.
- (4) If the driver will have unsupervised access to children, the driver shall complete a comprehensive background check and be determined eligible by the department in compliance with section 5n of the act, MCL 722.115n.
- (5) Each child passenger restraint device and each safety belt must be installed, anchored, and used according to the manufacturer's specifications and must be maintained in a safe working condition.
- (6) The transportation of all children must be conducted pursuant to state law.
- (7) Each child transported shall remain seated and properly restrained by a child passenger restraint device appropriate for his or her age. The manufacturer's rated seating capacity for the vehicle must not be exceeded.
- (8) A licensee shall provide a driver with a copy of the child information card, or comparable facsimile, for each child being transported in a vehicle.

(9) The driver of each vehicle transporting children shall carry in the vehicle, and be familiar with, the contents of a first aid kit. The first aid kit, must contain, at a minimum, all of the following:

- (a) Adhesive tape.
- (b) Bandages (assorted sizes).
- (c) Cold pack.
- (d) Disposable gloves.
- (e) Gauze pads and roller gauze (assorted sizes).
- (f) Hand sanitizer.
- (g) Plastic bags.
- (h) Scissors and tweezers.
- (i) Triangular bandage.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1952 Child transportation; parent permission; child information card; required when off-premises.

Rule 52 (1) A licensee shall obtain and keep on file written permission from a child's parent before a child is transported in a vehicle. Written permission must be obtained for both of the following:

- (a) Routine transportation, at least annually.
- (b) Nonroutine transportation, before each trip.

(2) At the time of initial enrollment, a licensee shall obtain written permission from a child's parent for the child to go on field trips that do not involve a vehicle including, but not limited to, walking to a park or in the neighborhood.

(3) A licensee shall have a copy of each child's information card and a first aid kit, containing the items listed in R 400.1951(9), accessible at all times when children leave the premises.

History: 2005 AACCS; 2009 AACCS; 2019 AACCS.

R 400.1961 Parent notification required; incidents; accidents; illness; disease; isolation.

Rule 61. (1) A licensee shall promptly report to a child's parent any of the following:

(a) Any incidents, accidents, suspected illness, or other changes observed in the health of a child.

(b) A child who is exposed to a communicable disease so the child may be observed for symptoms of the disease.

(2) A licensee shall isolate a child who is too ill to remain in the group in an area where the child can be supervised and made as comfortable as possible.

(3) Bedding, toys, utensils, toilets, and lavatories, used by an individual who is ill, must be appropriately cleaned and sanitized before being used by another individual.

History: 2005 AACCS; 2019 AACCS.

R 400.1962 Department notification required; incidents; injury; accident, illness, death, or fire.

Rule 62. (1) A licensee shall make a verbal or email report to the department within 24 hours of the occurrence of any of the following:

- (a) A child is lost or left unsupervised.
- (b) An incident involving inappropriate contact or an allegation of inappropriate contact.
- (c) A serious injury of a child.
- (d) A fire on the premises of the home that requires the use of fire suppression equipment or results in loss of life or property.

(2) A licensee shall make a verbal report to the department within 24 hours of the death of a child.

(3) A licensee shall make a verbal or email report to the department within 24 hours of notification by a parent that a child received medical treatment or was hospitalized for an injury, accident, or medical condition that occurred while the child was in care.

(4) A licensee shall submit a written report to the department of the occurrences outlined in subrules (1), (2), and (3) of this rule, in a format provided by the department, within 72 hours of the verbal or emailed report to the department.

(5) A licensee shall keep a copy of the report on file for a minimum of 4 years.

History: 2005 AACCS; 2019 AACCS.

R 400.1963 Rule variance.

Rule 63. (1) Upon written request of an applicant or licensee, the department may grant a variance from an administrative rule if the alternative proposed provides clear and convincing evidence that the health, welfare, and safety of children is protected.

(2) The decision of the department must be entered upon the records of the department and a signed copy must be sent to the applicant or licensee. A variance may remain in effect for as long as the licensee continues to comply with the conditions of the variance, or it may be time-limited.

History: 2005 AACCS; 2019 AACCS.