

Department of Licensing and Regulatory Affairs
Bureau of Community and Health Systems

Public Hearing
Thursday, July 18, 2019
3:00 P.M.

Present From Department of
Licensing and Regulator Affair

Ms. Tammy Bagby
Mr. Mark Jansen

Court Reporter: Cynthia Lathrop, CSR-2474

Lansing, Michigan

Thursday, July 18, 2019

3:00 p.m.

R E C O R D

MS. BAGBY: Good afternoon, my name is Tammy Bagby, and I'm an analyst for the Bureau of Community and Health Systems in the Department of Regulatory Affairs.

This hearing regarding the Licensing Rules for Family and Group Child Care Homes is being called to order at 3 p.m. on July 18, 2019 at the Library of Michigan and Historical Museum-Forum Auditorium located at 702 West Kalamazoo Street in Lansing, Michigan. This hearing is being conducted under the authority of the Administrative Procedures Act, Public Act 306 of 1969.

The notice of public hearing was published in three newspapers; on July 1st in the Marquette Mining Journal; and on July 2nd, it was published in the Jackson Citizen Patriot and the Grand Rapids Press. The same notice was published in the Michigan Register on July 15, 2019.

As stated in the notice, the proposed rule revisions are being promulgated as a result of recent amendments to the Child Care Licensing Act and

1 new requirements of the federal Child Care and
2 Development Block Grant.

3 Regulatory impact statements are
4 available for further explanation of these rule sets.
5 Copies were available in the hall outside the
6 auditorium. They can also be found on the Web site
7 of Michigan Office of Administrative Hearings and
8 Rules, formally known as ORR.

9 Pursuant to Section 45 of the
10 Administrative Procedures Act, MCL 24.245, the public
11 hearing is an opportunity for the public to present
12 data, views, questions and arguments regarding the
13 proposed rules.

14 The Department will use the testimony
15 and documents presented at this hearing to determine
16 if any changes should be made to the proposed rules
17 before they were adopted.

18 If you have comments, please make sure
19 that they relate directly to the proposed rules.

20 If you have questions regarding the
21 rules, please submit your questions as part of your
22 testimony for the Department's review.

23 If you have suggested changes to the
24 proposed rules, please include the specific reason
25 why the changes would be in the public interest.

1 If you wish to comment, please
2 complete a white card that were available when you
3 came in; this will help the Department prepare the
4 hearing record. When you testify, please identify
5 yourself by name and any organization, if any, that
6 you are representing today.

7 Written statements can be submitted
8 directly to me. The Department will also accept
9 written statements, e-mail and postmarked until 5:00
10 p.m. on Friday, July 19, 2019. Address information
11 can be found in the notice of public hearing that we
12 have made available in the hall.

13 If you would like to testify and have
14 not completed a white card, let me know because I've
15 got some here.

16 The Department staff from the Bureau
17 of Community and Health Systems include myself,
18 Sharon Riebel, Child Care Program Consultant, and
19 Mark Jansen, Director of Child Care Licensing
20 Division.

21 Before we start with public comments,
22 I invite Mark Jansen to the podium.

23 MR. JANSEN: Thanks, Tammy. Good
24 afternoon. My name is Mark Jansen. I am the Child
25 Care Licensing Director within the Bureau of

1 Community Health Systems within and the Department of
2 Licensing and Regulatory Affairs.

3 Today's hearing on the proposed new
4 rule set is for child care licensing in family homes
5 and groups homes. The project was initiated by the
6 Department about two years ago. The purpose of the
7 project is to identify the core principles and the
8 standards of child care licensing and then conduct a
9 comprehensive review and update of all the family
10 home and group home licensing rules.

11 The goal is to replace the current
12 rule set with an updated rule set for child care
13 licensing for homes and group homes that will
14 accomplish the following seven objectives:

15 Fulfill the statutory requirements for
16 rulemaking.

17 Enable the Department and child care
18 providers in their homes to focus on a core set of
19 principles and standards for child care licensing and
20 regulation.

21 Comport the current practice
22 standards.

23 Harmonize the rules with federal law
24 and regulations.

25 Be uniform insofar as is reasonable;

1 that is, the rules should be consistent across
2 different types of child care providers, unless
3 differences are necessary to fulfill statutory,
4 medical or structural requirements.

5 Be free of unnecessary repetition of
6 federal and state statutory and regulatory language.

7 And be free of obsolete and
8 unnecessary rules.

9 We think the proposed rule set
10 accomplishes these objectives.

11 The project was designed to have input
12 from internal and external stakeholders from the very
13 beginning of this process.

14 An ad hoc committee was formed based
15 on Public Act 116 of 1973. It included five
16 representatives from LARA, one from the Department of
17 Education, two from the Department of Human and
18 Health Services, and one from the Michigan
19 Association for the Education of Young Children. And
20 we really appreciated the expertise of eight
21 licensees who also gave their time away from their
22 business to help us revise the rules for child care,
23 for the homes and for the group homes.

24 The rules apply to two different
25 provider types, including approximately 4,200 homes

1 or group homes providing care to children. In order
2 to have input from these providers, the Department
3 identified stakeholders, reviewed comments submitted
4 since 2009 by interested parties and invited them to
5 participate in the project by contacting the Child
6 Care Licensing Division.

7 The Department held four meetings with
8 providers and stakeholders.

9 The five versions of draft rules were
10 circulated to stakeholders for review and comment,
11 and the proposed rules reflect their input.

12 We look forward to hearing your
13 comments today. We thank you very much for coming
14 and participating.

15 MS. BAGBY: Okay. With that, we will
16 now begin the public comment time frame. If you are
17 handing in written comments, feel free to just
18 summarize them and add to your comments; you don't
19 need to read them as they will become part of the
20 official record.

21 A reminder that comments must pertain
22 to the proposed rules.

23 The first card I have is from Steve
24 Springer from the DHHS Cancer Section.

25 MR. SPRINGER: Thank you. Good

1 afternoon. My name is Steve Springer. I'm with the
2 Cancer Prevention and Control Section at the Michigan
3 Department of Health and Human Services. I
4 specifically work in the Comprehensive Cancer Control
5 Unit. That's a unit that works with cancer across
6 the continuum; but to put that in more plain
7 language, from prevention to early detection to
8 diagnosis and treatment to survivorship and quality
9 of care, and in some cases end of life care is also
10 part of this.

11 I'm here today to share -- simply
12 share information on the hazards of radon and to
13 indicate my support for strategies that work to
14 eliminate or reduce radon exposure, and in this case,
15 I'm talking about child care homes and child care
16 center settings.

17 Just a few statements about radon.
18 Radon is a Class A carcinogen. It causes cancer in
19 humans. So it is the same as cigarette smoke in this
20 regard. It is deadly. Scientists attribute about
21 20,000 deaths in the U.S. each year to radon. It's
22 the second leading cause of lung cancer behind
23 smoking.

24 You can't see, smell or taste radon,
25 so you don't know if it's there or not. The harm

1 comes when the home has high levels of radon and
2 exposure takes place over a period of time.

3 One out of fifteen homes have high
4 radon levels, and any home can have a radon problem,
5 whether it's a home with a basement or without a
6 basement, whether the home is right -- two homes
7 right next to each other, one can have a radon
8 problem and one may not have a radon problem.

9 I think it's important to understand
10 that the State of Michigan's cancer plan for 2016 and
11 2020 has radon in the section on preventing cancer.
12 This is a document that is developed and implemented
13 by State cancer experts from around Michigan.

14 I'm here to simply support the rules
15 for both child care home and child care centers as
16 they relate to heating, ventilation and lighting in
17 child care homes and light, ventilation and screening
18 in child care centers. I support periodic retesting
19 of radon and support that this is done by qualified
20 and certified professionals.

21 That's what I have. Thank you.

22 MS. BAGBY: Thank you. Our next
23 person is Andrew Schepers. Welcome.

24 MR. SCHEPERS: Thank you. Good
25 afternoon. I appreciate the opportunity to speak

1 today. My name is Andrew Schepers, and I am the
2 Government Relations Director for the American Cancer
3 Society here in Michigan.

4 I have comments based on the Rule
5 419.34, or through 4. We would like an amendment to
6 item No. 4 to include language that would help
7 periodic testing if levels are -- exceed that four --
8 that level that's listed in there, and that the
9 retesting be done within some type of time limit,
10 usually periodic, a period of either five or six
11 years and be done by -- be done by a certified
12 professional. We are and we would be in favor of
13 that change.

14 And then we're also in favor of the
15 added rule, No. 5, providing the notification for
16 parents. We feel it's vital in terms of making sure
17 that parents know that there may have been a radon
18 problem or a radon issue and something has been done
19 to take care of that.

20 One issue we would just -- kind of
21 more of a vocabulary issue, but change remediation to
22 mitigation system. It's more of a vernacular.

23 But other than that, we support the
24 Department's efforts in terms of trying to bring
25 radon more into the public eye, especially when it

1 comes to child care home centers in that we hope that
2 the Department does the same ones they looked at as
3 the morbid commercial side.

4 Thank you.

5 MS. BAGBY: Thank you. I appreciate
6 your comments.

7 I do not have any other cards. Would
8 anybody else want to speak? Seeing none, to give
9 people time in case that are running late, it is
10 3:12. We will take a 20-minute recess which brings
11 us back at 3:32.

12 (Recess taken.)

13 MS. BAGBY: It is 3:32. We will
14 reconvene. One last call out if anybody wants to
15 have any comments. I guess not.

16 I want to thank everybody who
17 testified today, and thank you for coming.

18 Each comment that we received today,
19 both verbally and everything that we received by
20 e-mail or statement, as well as electronically, will
21 be reviewed and evaluated by the Department.

22 And with that, it is 3:32, and we will
23 adjourn. Thank you for coming.

24 (Hearing concluded at
25 3:32 p.m.)

1 STATE OF MICHIGAN)
) SS:
2 COUNTY OF SHIAWASSEE)

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I, Cynthia A. Lathrop, a Shorthand Reporter
and Notary Public in and for the above county and state,
acting in the County of Ingham, do hereby certify that the
aforegoing hearing was taken before me at the time and
place hereinbefore set forth.

I further certify that said hearing was me
reported by me stenographically and subsequently
transcribed and that the foregoing is a full, true and
correct transcript of my original shorthand notes.

IN TESTIMONY WHEREOF, I set my hand and
notarial seal at Shiawassee County, Michigan, this 25th day
of July 2019.

Cynthia A. Lathrop (CSR-2474)
Notary Public in and for the
County of Shiawassee,
State of Michigan
My Commission Expires: 2/2/20

Bagby, Tammy (LARA)

From: Brewer-Walraven, Lisa (MDE)
Sent: Thursday, July 18, 2019 4:06 PM
To: LARA-BCHS-Training
Subject: Attention: Tammy Bagby --- Comments on Family and Group Home Child Care Homes (MOAHR #2018-029 LR)

The Michigan Department of Education is submitting official comments related to the following proposed rule change.

R. 400.1905 (1) and (2):

R 400.1905 Training. **This includes old and new language.**

Rule 5. (1) The caregiver shall complete not less than 10 clock hours of training each year A licensee shall complete not less than 20 clock hours of training every 2 calendar years related to child development, program planning, and administrative management for a child care business, not including CPR, first aid, and blood borne pathogen infectious disease, including immunizations, training.

(2) Each assistant caregiver A child care staff member and a child care assistant shall complete not less than 5 10 clock hours of training each year every 2 calendar years related to child development and caring for children, not including CPR, first aid, and blood-borne pathogen infectious disease, including immunizations, training.

Per 45 CFR 98.44(b)(2) all CCDF caregivers, teachers, and providers must complete some amount of ongoing training **annually**. States must describe the minimum annual requirement for hours of training and professional development, though they have the flexibility to establish that requirement as well as determining which topics are covered.

Unfortunately without an annual training requirement we would be out of compliance with the federal rules and would be cited (and possibly penalized) as out of compliance in the CCDF State Plan. Due to the fact that CCDF is used to fully support the cost of child care licensing in MI it jeopardizes the level of support MDE can provide to ensure all programs meet requirements and could jeopardize the funding level in the IDG between MDE and LARA.

Lisa

Lisa Brewer Walraven

Director, Child Development and Care

Office of Great Start

Michigan Department of Education

(517) 241-6950 Direct Line

866-990-3227 for support with payments, questions about billing and authorizations

Brewer-walravenl@michigan.gov

Bagby, Tammy (LARA)

From: Liz Fuss <lfuss@childcarenetwork.org>
Sent: Tuesday, June 25, 2019 1:58 PM
To: LARA-BCHS-Training
Subject: Re: LARA Family & Group Home Public Hearing

Follow Up Flag: Follow up
Flag Status: Flagged

Hello,

In reading the proposed Family & Group Home Rule changes, I have suggested corrections or and questioning word choice:

R 400.1906 (b) Daily records detailing arrival times and departure times at the child care ~~center~~ home.

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~~ marijuana 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.

Thank you,

Liz Fuss
Quality Improvement Specialist

Child Care Network
Great Start to Quality Southeast Resource Center



1040 S. Winter St., Suite 2020 (MSU Extension Office)
Adrian, MI 49221
Direct: 517.264.5324 Fax: 517.264.5317

www.childcarenetwork.org

www.facebook.com/ChildCareNetwork

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Bagby, Tammy (LARA)

From: Wentworth, Theodore R. (EGLE)
Sent: Thursday, July 18, 2019 12:01 PM
To: LARA-BCHS-Training
Cc: Berndt, Aaron (EGLE); Radon
Subject: Suggested Rule Changes (MOAHR # 2018- 029 LR)

This email is to provide suggested language to the subrules (4) and (5) of R 400.1934. These subrules deal with radon gas in the day care home. I previously submitted suggested language for these subrules via email. I am sending this email to suggest a change to my previous language in subrule (4). In my initial email, I suggested that retesting be performed initially and every 5 years thereafter. In the language below, I am suggesting that testing be performed initially and at subsequent license renewals.

The suggested language is as follows (subrules (1) to (3) and (6) are not affected):

R 400.1934 Heating; ventilation; lighting.

(1) ...

(2) ...

(3) ...

(4) The lowest level of the child care home must not have a concentration of radon gas exceeding 4 picocuries per liter of air, except as provided in subrule (5) of this rule. Testing shall be performed by a professional certified with the National Radon Protection Program (NRPP) or the National Radon Safety Board (NSRB) initially and at the time of subsequent license renewals. Documentation of the results must be kept on file in the home.

(5) If the concentration of radon gas exceeds 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 (4) of this rule.

(6) ...

Thank you for your consideration of the suggested rule language.

T.R. Wentworth II, Supervisor
Radioactive Materials Unit
Materials Management Division
Michigan Department of Environment, Great Lakes, and Energy
Phone : 517-915-8881
wentwortht@michigan.gov

STATE OF MICHIGAN)
County of Kent
and County of Ottawa

ss Dawn Sultrop

RECEIVED
LARA/BCHS

Being duly sworn deposes and say he/she is Principal Clerk of

JUL 08 2019



THE GRAND RAPIDS PRESS

DAILY EDITION

a newspaper published and circulated in the County of Kent and the County of Ottawa and otherwise qualified according to Supreme Court Rule; and that the annexed notice, taken from said paper, has been duly published in said paper on the following day(day(s)) _____

July 2 A.D. 20 19

Sworn to and subscribed before me this 2nd day of July 2019

Janice M. Degraaf
JANICE M. DEGRAAF
NOTARY PUBLIC, STATE OF MI
COUNTY OF KENT
MY COMMISSION EXPIRES Oct 3, 2020
ACTING IN COUNTY OF Kent

**Department of Licensing and Regulatory Affairs
Bureau of Community and Health Systems**

NOTICE OF PUBLIC HEARING

Thursday, July 18, 2019

3:00 p.m.

Location: Library of Michigan and Historical Museum- Forum Auditorium
702 W. Kalamazoo St., Lansing, Michigan 48915

The hearing is held to receive public comments on the following administrative rules:

Family and Group Child Care Homes (MOAHR # 2018-029 LR)

Authority: 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.

Overview: The proposed rule revisions are being promulgated as a result of recent amendments to the Child Care Licensing Act, 1973 PA 116, and new requirements of the federal Child Care and Development Block Grant. The current rules need to be updated to comport with current law and current best practices.

The rules will take effect 7 days after filing with the Secretary of State. Comments on the proposed rules may be presented in person at the public hearing. Written comments will also be accepted until 5:00 p.m. on July 19, 2019 at the following address or e-mail address:

Department of Licensing and Regulatory Affairs
Bureau of Community and Health Systems
P.O. Box 30664
Lansing, MI 48909-8170
Attention: Tammy Bagby Email: lara-bchs-training@michigan.gov

A copy of the proposed rules may be obtained by contacting (517) 335-4084 or at the email address noted above. Electronic copies also may be obtained at the following link:

<https://dlmb.state.mi.us/DTMBORR/AdminCode.aspx?AdminCode=Department&Dpt=LR&Level=1-Bureau+of+Community+and+Health+Systems>

The meeting site and parking are accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations (such as materials in alternative format) in order to participate in the meeting should call (517) 241-7500.

9222911-01

STATE OF MICHIGAN)
County of Jackson

SS *Dawn Suttrop*

RECEIVED
LARA/BCHS

Being duly sworn deposes and say he/she is Principal Clerk of

JUL 08 2019



JACKSON CITIZEN PATRIOT DAILY EDITION

a newspaper published and circulated in the County of Jackson and otherwise qualified according to Supreme Court Rule; and that the annexed notice, taken from said paper, has been duly published in said paper on the following day(days) _____

July 2 A.D. 20 *19*

Sworn to and subscribed before me this *2nd* day of *July* 20*19*

Janice M. DeGraaf
JANICE M. DEGRAAF
NOTARY PUBLIC, STATE OF MI
COUNTY OF KENT
MY COMMISSION EXPIRES Oct 3, 2020
ACTING IN COUNTY OF *Kent*

Department of Licensing and Regulatory Affairs
Bureau of Community and Health Systems

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9222511-02

The Mining Journal

JUL 18 2019

Upper Michigan's Largest Daily Newspaper

249 W. Washington St., P.O. Box 430, Marquette, Michigan 49855. Phone (906)228-2500. Fax (906)228-3273

AFFIDAVIT OF PUBLICATION**STATE OF MICHIGAN****AFFIDAVIT OF PUBLICATION**For the County of **MARQUETTE**

In the matter of: Notice of Public Hearing
July 18, 2019
Department of Licensing and Regulatory Affairs
Family and Group Child Care Homes

Size: 2 x 8

State of **MICHIGAN**, County of Marquette ss.**GERALD NEWHOUSE**

being duly sworn, says that he is

CIRCULATION MANAGERof **THE MINING JOURNAL**

a newspaper published and circulated in
said county and otherwise qualified
according to Supreme Court Rule; that
annexed hereto is a printed copy of a
notice which was published in said
newspaper on the following date, or
dates, to-wit

July 1, 2019

**GERALD NEWHOUSE**

Subscribed and Sworn to before me this 16th day of July 2019.

**HOLLY GASMAN**

Notary Public for Marquette County, Michigan
Acting in the County of Marquette
My commission expires: May 25, 2025

the South as a scuffle broke out between reporters and North Korean security guards, with officials shoving

And a sequel could be in the works: Trump told reporters he had invited Kim to Washington.

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Bureau of Community and Health Systems
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