

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BUREAU OF COMMUNITY AND HEALTH SYSTEMS

ADULT FOSTER CARE FAMILY HOMES

Filed with the secretary of state on June 8, 2023

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the department of licensing and regulatory affairs by section 9 of the Executive organization act of 1965, 1965 PA 380, MCL 16.109, and sections 10 and 13 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.710 and 400.713, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2015-1, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 400.227)

R 400.1401 and R 400.1416 of the Michigan Administrative Code are amended, R 400.1416a is added, and R 400.1417 is rescinded, as follows:

R 400.1401 Definitions.

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

- (a) "Act" means the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
- (b) "Capacity" means the maximum number of residents for which a home is licensed.
- (c) "Chemical restraint" means the use of any drug or chemical in an emergency situation to limit activity or aggressiveness of a resident if the activity or aggressiveness would be harmful to the resident, other individuals, or property.
- (d) "Department" means department of licensing and regulatory affairs.
- (e) "Designated representative" means the individual or agency that has been granted the authority to act on behalf of the resident by the resident or the legal guardian of that resident.
- (f) "Elopement" means a resident that has a service plan that requires notice or arranged supervision to leave the facility and is absent without notice or supervision.
- (g) "Healthcare appraisal" means a licensed physician's or registered nurse's statement that provides an assessment of the general physical condition of a resident.
- (h) "Home" means an adult foster care family home.
- (i) "House guidelines" means those guidelines established by the licensee that set expectations for resident conduct.

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

(k) "Members of the household" means all individuals living in the home, exclusive of residents.

(l) "Occupants" means all individuals living in the home.

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

(n) "Premises" means the facility, grounds, and all other appurtenances.

(o) "Resident" means an adult, as that term is defined in section 3 of the act, MCL 400.703, who, because of mental illness, developmental disability, physical handicap, or aged condition, requires and receives foster care in an adult foster care family home and does not require continuous nursing care.

(p) "Responsible agency" means a public or private organization which, after written agreement with a resident or the resident's designated representative, provides 1 or more of the following:

(i) Preplacement and placement services.

(ii) Assessment planning or the establishment of an individual plan of service.

(iii) Maintenance of ongoing follow-up services while the resident is in the home.

(q) "Responsible individual" means the licensee or adult designated by the licensee to provide foster care to residents.

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

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

(t) "Time-out" means a behavior management technique employed to reduce undesired behavior by separating a resident from their surroundings if the undesired behavior occurs.

(u) "Trust fund" means money or property set aside as a trust for a resident for the benefit of a resident and held for safekeeping by the licensee.

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

R 400.1416 Resident healthcare.

Rule 16. (1) A licensee, in conjunction with a resident's cooperation, shall follow the instructions and recommendations of a resident's physician regarding medications, special diets, and other resident healthcare needs that can be provided in the home.

(2) A licensee shall maintain a healthcare appraisal on file for not less than 2 years after the resident's admission to the home.

(3) A licensee shall record the weight of a resident on admission and then monthly after that. Weight records must be maintained for 2 years.

R 400.1416a Incident notification, incident records.

Rule 16a. (1) If a resident has a representative identified in writing on the resident's care agreement, a licensee shall report to the resident's representative within 48 hours after any of the following:

- (a) Unexpected or unnatural death of a resident.
 - (b) Unexpected and preventable inpatient hospital admission.
 - (c) Physical hostility or self-inflicted harm or harm to others resulting in injury that requires outside medical attention or law enforcement involvement.
 - (d) Natural disaster or fire that results in evacuation of residents or discontinuation of services greater than 24 hours.
 - (e) Elopement from the home if the resident's whereabouts is unknown.
- (2) If an elopement occurs, staff shall conduct an immediate search to locate the resident. If the resident is not located within 30 minutes after the elopement occurred, staff shall contact law enforcement.
- (3) An incident must be recorded on a department-approved form and kept in the home for a period of not less than 2 years.
- (4) The department may review incident reports during a renewal inspection or special investigation. This does not prohibit the department from requesting an incident report if determined necessary by the department. If the department does request an incident report, the licensee shall provide the report in electronic form within 24 hours after the request. The department shall maintain and protect these documents in accordance with state and federal laws, including privacy laws.

R 400.1417 Rescinded.