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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF COMMUNITY AND HEALTH SYSTEMS

Public Hearing  
Wednesday, August 7, 2019  
3:00 P.M.

Present From Department of  
Licensing and Regulator Affair

Ms. Karen Krzanowski  
Mr. Mark Jansen  
Ms. Sharon Riebel

Court Reporter: Timothy J. Boroski, RPR, CSR-2378

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(NO EXHIBITS MARKED)

1                   Lansing, Michigan

2                   August 7, 2019

3                   3:00 p.m.

4                   P R O C E E D I N G S

5                   -   -   -   -   -

6                   MS. KRZANOWSKI: We're going to call the  
7                   Hearing together.

8                   Good afternoon. My name is Karen Krzanowski.  
9                   I am manager of the Legislative Reporting, Rules  
10                  Training & FOIA section, within the Bureau of Community  
11                  Health Systems, in the Department of Licensing and  
12                  Regulatory Affairs.

13                  This hearing regarding Licensing Child Care  
14                  Centers is being called to order at 3 o'clock p.m. on  
15                  August 7th, 2019, at the Library of Michigan and  
16                  Historical Museum, and this is the Forum Auditorium,  
17                  located at 702 West Kalamazoo Street in Lansing,  
18                  Michigan.

19                  The hearing is being conducted under the  
20                  authority of the Administrative Procedures Act, Public  
21                  Act 306 of 2019 -- excuse me -- of 1969.

22                  The notice of public hearing was published in  
23                  three newspapers. On July 23, 2019, in the Marquette  
24                  Mining Journal, and on July 24, 2019, it was published in  
25                  the Jackson Citizen Patriot and the Grand Rapids Press.

1 The same notice was published in the Michigan Register on  
2 August 1st, 2019.

3 As stated in the notice, the proposed rule  
4 revisions are being promulgated as a result of recent  
5 amendments to Public Act 116 of 1973, which is commonly  
6 known as the Child Care Licensing Act, and new  
7 requirements of the federal Child Care and Development  
8 Block Grant.

9 A Regulatory Impact Statement is available for  
10 further explanation of this ruleset. Copies are  
11 available in the hall up the steps just outside of this  
12 auditorium, or they can be found on the website for the  
13 Michigan Office of Administrative Hearings and Rules.

14 Pursuant to section 45 of the Administrative  
15 Procedures Act, MCL 24.245, the public hearing is an  
16 opportunity for the public to present data, views,  
17 questions, and arguments regarding the proposed rules.

18 The Department will use the testimony and  
19 documents presented at this hearing to determine if any  
20 changes should be made to the proposed rules before they  
21 are adopted.

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

24 If you have questions regarding the rules,  
25 please submit your questions as part of your testimony

1           for the Department's review.

2                       If you have suggested changes to the proposed  
3           rules, please include the specific reasons why the  
4           changes would be in the public interest.

5                       If you wish to comment -- excuse me -- if you  
6           wish to comment, please complete a white card, they're  
7           available at the desk just outside the Forum Auditorium,  
8           and submit your card to me. I'll be sitting here at the  
9           front table. You can hand your card to me at any time.

10                      Written statements can also be submitted  
11           directly to me. The Department will accept written  
12           statements emailed or postmarked until 5 o'clock p.m. on  
13           Thursday, August 8, 2019. That's tomorrow.

14                      Address information can be found in the Notice  
15           of the Public Hearing which is also available at the  
16           table out front.

17                      If you would like to testify and have not  
18           completed a card, please do so now. I'll mention that I  
19           only have two cards currently. So if you haven't turned  
20           in your card, please do so.

21                      The department staff from the Bureau of  
22           Community and Health Systems include me, Sharon Riebel --

23                      Do you want to raise your hand Sharon?

24                      -- who is the Child Care Program Consultant;  
25           and Mark Jansen here who is the Director of the Child

1 Care Licensing Division.

2 Before we start public comments, I invite Mark  
3 Jansen to the podium.

4 MR. JANSEN: Thank you, Karen. Thanks to  
5 everybody for coming. I know it takes a lot of energy  
6 and a lot of time out of your lives to come here today.  
7 So we thank you for coming this afternoon.

8 My name is Mark Jansen. I am the Child Care  
9 Licensing Division Director within the Bureau of  
10 Community Health Systems within the Department of  
11 Licensing and Regulatory Affairs, also known as LARA to  
12 many of you.

13 Today's hearing on the proposed new ruleset is  
14 for child care licensing in child care centers. This  
15 project was initiated by the department about two years  
16 ago. The purpose of the project is to identify the core  
17 principles and the standards of child care licensing and  
18 then conduct a comprehensive review and update of all the  
19 child care center licensing rules.

20 The goal is to replace the current ruleset with  
21 an updated ruleset for the child care licensing for the  
22 centers that will accomplish the following seven  
23 objectives:

24 Fulfill statutory requirements for  
25 rulemaking.

1                   Enable the department and child care  
2                   providers in the centers to focus on a core set of  
3                   principles and standards for child care licensing  
4                   and regulation.

5                   Comport with the current practice  
6                   standards.

7                   Harmonize the rules with federal law and  
8                   regulations.

9                   Be uniform insofar as is reasonable.  
10                  That is, the rules should be consistent across  
11                  different types of child care providers, unless  
12                  differences are necessary to fulfill statutory,  
13                  medical, or structural requirements.

14                  Be free of unnecessary repetition of  
15                  federal and state statutory and regulatory language.

16                  And be free of obsolete and unnecessary  
17                  rules.

18                  We think the proposed ruleset accomplishes  
19                  these objectives.

20                  The project was designed to gather input from  
21                  internal and external stakeholders from the very  
22                  beginning of this process.

23                  An ad hoc committee was formed based on Public  
24                  Act 116 of 1973. It included five representatives from  
25                  the Department of Licensing and Regulatory Affairs, one

1 from the Department of Education, two from the Department  
2 of Health and Human Services, and one from the Michigan  
3 Association for the Education of Young Children.

4 We also appreciated the expertise of six  
5 representatives of child care centers from around the  
6 state who also gave their time and energy away from their  
7 businesses to help us review and revise the rules for the  
8 child care centers.

9 The rules apply to child care centers,  
10 approximately 4,400 child care centers providing care to  
11 children in the state of Michigan.

12 In order to have input from these providers,  
13 the department identified stakeholders, reviewed comments  
14 submitted since 2014 by interested parties, and invited  
15 them to participate in the project by contacting Child  
16 Care Licensing, our Division.

17 The department held four meetings with the  
18 providers and stakeholders.

19 Five versions of the draft rules were  
20 circulated to stakeholders for review and comment. And  
21 the proposed rules reflect that input.

22 We look forward to hearing from your comments  
23 today. And we thank you again for your participation.

24 MS. KRZANOWSKI: We will now begin the public  
25 comment time frame. If you are handing in written



1           comments, feel free to summarize them and add your own  
2           comments. You do not need to read them aloud as they  
3           will become a part of the official record in their  
4           entirety.

5                     Reminder that comments must pertain to the  
6           proposed rules.

7                     The first card I have is from Ajano Perry,  
8           representing Schoolhouse Montessori Academy.

9                     If you would come down to this microphone.

10                    Did you want to turn that microphone on at this  
11           time?

12                    Just be sure you speak clearly in the  
13           microphone. We are recording all of the testimony today.

14                    MS. PERRY: Can I say, well, what I have, or  
15           just what -- just --

16                    MS. KRZANOWSKI: Whatever you're comfortable  
17           with.

18                    MS. PERRY: All right. My name is Ajano Perry.  
19           I'm from Schoolhouse Montessori Academy. I have a couple  
20           of questions and comments.

21                    Rule 400.8122, the lead caregiver  
22           qualifications and responsibilities. Sub Rule 6 and Sub  
23           Rule 8, lead caregivers have two years from date of hire  
24           to complete the 90 clock hours, or 90 hours for Michigan  
25           registry. The Sub Rule 8, a substitute lead caregiver

1 shall have 90 days to meet the qualifications of the lead  
2 caregiver.

3 As I read that rule, it looks like it's the sub  
4 rules are contradicting each other. Because it says lead  
5 caregivers have two years from date of hire. A  
6 substitute lead teacher caregiver have 90 days to meet  
7 the qualifications of the lead caregiver.

8 And another comment I want to make is about the  
9 Rule 400.8131, professional development requirements.  
10 Within 90 days of date of being hired, or the first day  
11 as an unsupervised volunteer, all child care staff  
12 members and nonsupervised volunteers should complete the  
13 following trainings, which is the CPR, first aid, within  
14 90 days of being hired. It's going to be a little  
15 difficult for the new hire to get done. That's my  
16 comment.

17 And the other one that I wanted to point out is  
18 the 400.8170, the outdoor play area and the shock  
19 absorbing surface material. My question will be is  
20 certified black playground mulch/wood chips considered as  
21 a loose fill type?

22 And Rule 400.8182, ratio and group size  
23 requirements, Sub Rule 3c: Preschoolers, 37 to 48 months  
24 of age. That's Sub Rule 3c. Sub Rule 4 says children  
25 who have reached 33 months of age may, when

1       developmentally appropriate, be enrolled in a three-year-  
2       old classroom with written parental permission. The  
3       ratio listed in Sub Rules 3c applies.

4               The above rule is contradictory. Rule 3c says  
5       37 months and Rule 4 says 36 months, or three years of  
6       age.

7               And the other one that I would like to point  
8       out is the -- this will be a question. Rule 400.8188,  
9       sleeping, resting, and supervision. Rule -- Sub Rule 13  
10      says for children under age -- school age who do not  
11      sleep at rest time, quiet activities must be provided  
12      such as reading books or putting puzzles together.

13              But my question will be, in our school we have  
14      four-years-old children. Are they -- is that  
15      considered -- the four-years-old also will be a part of  
16      that if they do not sleep during that time?

17              So those are my comments.

18              MS. KRZANOWSKI: Did you want to turn in a copy  
19      of your written comments as well?

20              MS. AJANO: Sure.

21              MS. KRZANOWSKI: Thank you.

22              The only other card that I have is a person who  
23      said they might testify. They weren't sure. It's for  
24      Amanda Moorehouse from LHCH.

25              Did you wish to testify?

1 MS. MOOREHOUSE: No.

2 MS. KRZANOWSKI: No? Okay.

3 Does anyone else wish to testify?

4 MS. WESTON: I should have stayed down here;  
5 shouldn't I?

6 MS. KRZANOWSKI: Go ahead. Thank you. Go  
7 ahead and speak up.

8 MS. WESTON: I'm Elizabeth Weston, Executive  
9 Director of EC3, representing Educational Child Care  
10 Center and Early LCC.

11 I echo several of the comments that my friend  
12 from Montessori made.

13 The first is on Rule 400.8110, Section 6, about  
14 detailing the accurate daily records of arrival times and  
15 departure times for each child care staff member.

16 I think this needs to be clarified because  
17 it -- as to whether the staff at the centers are clocking  
18 in and clocking out, or are we looking for that  
19 specificity of actual time worked? Or does it mean that  
20 we, that centers, need to be able to provide a schedule  
21 of when people were scheduled and then who was on?

22 So just some clarification on what exactly that  
23 means would be helpful.

24 Next is on Rule 400.8122, Section 8. As my  
25 colleague from Montessori stated, having a substitute

1        caregiver for -- a substitute teacher for a lead  
2        caregiver, giving them only 90 days to meet the  
3        qualifications of a lead is not enough time.  
4        Particularly in the current job market.

5                We are -- employees are hard to come by. We  
6        have good candidates who can step into the position. And  
7        maybe a long term sub going -- stepping into the job, it  
8        will take more than 90. I would think maybe 180 days  
9        at -- at a minimum would be a better, a more reasonable  
10       time frame.

11               And lastly, Rule 400.8131, Section 10, I agree  
12       with my friend from Montessori that the requiring all  
13       child care staff to have their CPR and first aid  
14       certification within 90 days of hire puts an undue  
15       burden.

16               I think at a minimum, again, six months, 180  
17       days, would be more reasonable. And if -- if you're  
18       going to require everyone to -- to do it. If you change  
19       the rules to be that only lead caregivers, or all full  
20       time staff, but not all staff in the center, then I think  
21       90 days is more reasonable. But, particularly for part  
22       time staff, some of them don't even stay 90 days.

23               So those are my comments.

24               MS. KRZANOWSKI: Thank you.

25               Do we have anyone else who would like to

1           testify today?

2                       MS. BECKETT: I'm trying. I didn't know I had  
3           to have a rule number.

4                       MS. KRZANOWSKI: You don't have to. Not  
5           necessarily.

6                       Did you fill out a white card?

7                       MS. BECKETT: I was in the process.

8                       MS. KRZANOWSKI: Okay. Yep. Take your time.  
9           Take your time. Don't rush.

10                      MS. BECKETT: Can I turn it in when I'm done?

11                      MS. KRZANOWSKI: When you're done, that's fine.

12                      MS. BECKETT: Okay. Hi. I'm Sue Beckett. I  
13           own Heavens Elect in Midland, Michigan. I also agree  
14           with some of the comments that there needs to be some  
15           clarification on those.

16                      I don't know how this forum works or do we --  
17           is it a discussion or is it just you listen and we talk  
18           and you do your thing.

19                      Okay. I'll see how this goes.

20                      So one of the questions we had is the ratio.  
21           Say the child is 37 to 48 months, at what point does the  
22           child become the next ratio? Is it at their birthday or  
23           is it the following month? So we would like  
24           clarification on that.

25                      And then we have, under the school age program,

1       and I'm sorry I don't have numbers, but young five's  
2       are -- we need to know whether a young five is considered  
3       a public school student or are they -- do they still fall  
4       under the day care rules for information and that kind of  
5       thing?

6                 Under the volunteer, we have an organization  
7       which probably many of you just call ESA. And we have  
8       therapists that come from ESA to our facility to do  
9       therapy on children.

10                And it's our understanding that we are  
11       responsible to get their fingerprints and clock them in,  
12       clock them out.

13                And my question is, why is that my  
14       responsibility, and do they not have those certifications  
15       working for ESA since they're for children?

16                And if -- if the child is being clocked in and  
17       clocked out to go with the therapists, do I have to have  
18       a separate clock in/clock out, so to speak, for the  
19       therapist that comes from ESA?

20                We have several of those. So I would like a  
21       clarification on that, please.

22                Just on the bottle warmer for the babies. I'm  
23       having a difficult time finding a universal bottle  
24       warmer. And I have currently almost 20 babies and I do  
25       not have 20 outlets to plug in 20 bottle warmers.

1       So that -- that's -- I'm not there yet, but it's becoming  
2       a question mark whether that's even feasible.

3               I also agree with the 90 days of asking  
4       somebody to pay all the money for CPR, first aid, et  
5       cetera. One of my big concerns is the testing, or the  
6       education provided by the state that has many questions  
7       in there with, "What's your day care's policy on, blah,  
8       blah, blah?" And it did not work for me, and they --  
9       they don't know, and they don't know how to answer those  
10      questions.

11             My next concern under the education, is that  
12      going to be free? Is that going to continue to be free?  
13      And then what are we to do when you have people who  
14      cannot pass that test?

15             I have a lady whose worked for me forever and  
16      she has dementia. And I'm her only thing that's holding  
17      her together right now. And she does nothing for me but  
18      wash dishes and fold laundry, but yet she's required to  
19      pass that test, and she can't.

20             So am I -- do I fire her? Do I say she can't  
21      work anymore? So that's a concern for me.

22             What else do we have? And on the testing  
23      provided by the state, does that qualify us for our  
24      bloodborne pathogen training, or do we still have to do  
25      our additional bloodborne pathogen training?



1 Under the food storage. The question I have  
2 for that is, if the food is in a container, like in big  
3 cans of green beans and corn, can that set on a pallet on  
4 the floor, or does everything have to be up on a shelf?  
5 Because I've run out of storage room.

6 I think I'm done.

7 MS. KRZANOWSKI: Thank you.

8 MS. BECKETT: Uh-huh.

9 MS. KRZANOWSKI: Did you wish to turn in any  
10 written comments or --

11 MS. BECKETT: I -- I may.

12 MS. KRZANOWSKI: You're welcome to.

13 MS. BECKETT: Thank you.

14 MS. KRZANOWSKI: Okay. Thank you.

15 Is there anyone else wishing to testify today?

16 Thank you.

17 MS. ESHENAUR: Thank you.

18 My name is Karen Eshenaur. I'm the Executive  
19 Director of Lakeshore Little People's Place in Holland.  
20 And I, like the others, just have some questions.

21 One is under Rule 400.8103. And that states  
22 that the new toddler definition is 13 through 30 months.  
23 Then on table 4, under the ratios, the toddler -- infants  
24 and toddlers are described as birth to 30 months. So  
25 there's a month discrepancy there.

1                   And I would like the committee to definitely  
2           consider the toddler room and the spaces available. If  
3           we add another month where they have to stay in a toddler  
4           room at that ratio, we're going to have a tremendous  
5           backup of our kids with such limited space for that age  
6           group already.

7                   Then, let's see here, Rule 400.8112. It says  
8           an individual may serve as a child care staff member  
9           pending an eligibility determination by the department,  
10          and shall be supervised at all times by the licensee, or  
11          a child care staff member who has been determined  
12          eligible.

13                   That seems to contradict Rule 400.8125, which  
14          says all staff members and volunteers shall receive a  
15          public sex offender registry clearance before having any  
16          contact with a child care -- with a child in care. A  
17          copy of the clearance must be kept on file. That now is  
18          all a part of the CCBC, the Child Care Background Check,  
19          the system.

20                   So all of that is done through the system now.  
21          So when you go through that system and enter in and you  
22          have to search the child care registry, is finding them  
23          and saying no report found satisfy that rule, and, if so,  
24          how can we print? There's nothing to print at that point  
25          before eligibility is given. Does that make sense?

1                   AMY WALTER: Just to let you know, those are  
2 two actual separate things.

3                   I'm sorry, Amy Walter.

4                   Just to clarify for you, those are actually two  
5 separate systems. And the public sex offender registry  
6 is actually a free registry. Any person can get online  
7 and actually go look it up.

8                   MS. ESHENAUR: Right. So do they want us doing  
9 it through both is the question?

10                  MS. KRZANOWSKI: Just to clarify, we will not  
11 be answering questions at this point. We're accepting  
12 questions and we will be reviewing them.

13                  And, Mark, did you want to make any comment?  
14 Were you planning to respond to questions or --

15                  MR. JANSEN: I'm not going to respond to  
16 questions, but I love hearing them, because we will  
17 respond to them. We'll just figure out the best way.  
18 Probably the Listserv and we'll be doing things like  
19 that. We're going to do trainings out in the field. So  
20 a lot of your questions are going to get answered  
21 face-to-face.

22                  This is great, though. So this gets us  
23 prepared for how we have to handle getting some of that  
24 information and probably fixing a few things as well.

25                  MS. KRZANOWSKI: Thank you.

1 MS. ESHENAUR: And I think others have covered  
2 my other questions, so --

3 MS. KRZANOWSKI: Did you want to turn anything  
4 in writing?

5 MS. ESHENAUR: No.

6 MS. KRZANOWSKI: No. Okay. Thank you.

7 That was our last speaker.

8 It's not quite 3:30. So I would propose that  
9 we take a 15 minute break just to give others who maybe  
10 are -- maybe are caught on the road, or trying to get  
11 here, give them a little bit more time.

12 And then we'll reconvene. And if anyone wants  
13 to testify then, we'll stay and until no one else is  
14 wanting to testify.

15 So it's 3:30 now. We'll just adjourn until  
16 3:45 and then come back.

17 You're welcome to come back or not. It's up to  
18 you.

19 Okay. Thank you.

20 (Off the record at 3:30 p.m., back on the  
21 record at 3:45 p.m.)

22 MS. KRZANOWSKI: Okay. It's 3:45, so we'll  
23 reconvene for final remarks.

24 I would like to thank everyone for their  
25 comments today. Each comment will be reviewed and

evaluated by the Bureau as well as the comments received by mail or electronically during the open comment time, which ends tomorrow at 5:00 p.m.

Seeing there are no other public comments, we will adjourn.

Thank you.

(Proceedings concluded at 3:46 p.m.)

1  
2 CERTIFICATE OF REPORTER3  
4 (STATE OF MICHIGAN)

5 SS

6 (COUNTY OF EATON )  
7

8 I hereby certify that on the date and at the place  
9 hereinbefore set forth, I reported stenographically the  
10 proceedings held in the matter hereinbefore set forth;  
11 and that the testimony so recorded was subsequently  
12 transcribed under my direction and supervision, and that  
13 the foregoing is a full, true and accurate transcript of  
14 my original stenotype notes.

15  
16  
17 Dated: August 15th, 2019  
18

19  
20 Timothy J. Boroski, RPR, CSR-2378  
21 Notary Public in and for the County  
of Eaton, Acting in the County of  
Ingham

22 MY COMMISSION EXPIRES:  
23 October 30, 2024  
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