

# CHILDREN'S FOSTER HOME LICENSING TECHNICAL ASSISTANCE (TA) MANUAL



Michigan Department of Health and Human Services

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**CHILDREN'S FOSTER HOME LICENSING  
TECHNICAL ASSISTANCE (TA) MANUAL**

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## Introduction

The Child Care Organization Act, Act 116 of the Public Acts of 1973, as amended, (hereafter referred to as Act 116), in Section 4 requires the Division of Child Welfare Licensing (also referred to as DCWL and the Department) to assist child placing agencies in meeting the requirements of the Act and the promulgated administrative rules. This assistance is provided in the form of consultation and technical assistance, both written and verbal.

Technical assistance is professional advice provided to assist the licensee in achieving compliance with the licensing law, Act 116, and applicable administrative rules that also have the force of law. The focus of technical assistance is the achievement and maintenance of compliance with licensing requirements. This includes the offering of suggestions, referrals to other resources, and/or sharing of ideas that may be helpful to the licensee.

As required by Act 116, the Department has developed administrative rules for child placing agencies and foster family homes/foster family group homes. Current rules were filed with the Secretary of State on December 5, 2014, and became effective January 5, 2015.

The administrative rules for Child Placing Agencies are divided into eight parts:

- Part 1 – General Provisions
- Part 2 – Agency Services
- Part 3 – Foster Home Certification
- Part 4 – Foster Care Services
- Part 5 – Independent Living Services
- Part 6 – Adoption Evaluation Services
- Part 7 – Adoption Placement Services
- Part 8 – Inter-Country Adoption

The administrative rules for Foster Homes are divided into five parts:

- Part 1 – General Provisions
- Part 2 – Application and Licensing
- Part 3 – The Foster Home
- Part 4 – Foster Care
- Part 5 – Reporting and Record keeping

The TA Manual provides direction and assistance to child placing agencies in the certification of foster homes for licensure. The TA Manual focuses on:

- Child Placing Agency Rules – Part 3: Foster Home Certification
- Foster Home Rules – Parts 1-5

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Technical assistance is provided to assist agencies in determining a family's compliance with the licensing rules as well as writing of an agency's required policies.

### **Maintenance of TA Manual**

Revision and additions to policy will continue to be transmitted to child placing agencies and approved governmental units through Child Placing Agency Letters. CPA letters will also highlight changes that will be made to the online TA Manual. The TA Manual and CPA letters will continue to be available via the [www.michigan.gov/dhslicensing](http://www.michigan.gov/dhslicensing) web site.

### **The Relationship between Public Act 116 and Administrative Rules**

**LICENSING IS A LEGAL PROCESS.** While agency staff generally come from a social work or other human services background, the process of certifying foster homes for licensure is based on compliance with the law and promulgated rules. The skills and abilities that staff bring to the job will assist in determining compliance, but the actual process is a legal one.

Act 116 is the legislation that enables the department to write and promulgate rules. The child placing agency rules and the foster home rules are the standards of care promulgated under Act 116.

The purpose of Act 116 is:

- To provide for the protection of children through the licensing and regulation of child care organizations;
- To provide for the establishment of standards of care for child care organizations;
- To prescribe powers and duties of the DCWL and adoption facilitators; to provide penalties; and
- To repeal certain acts and parts of acts.

Child placing agencies and child foster care homes are defined as child care organizations in Act 116.

Section 2 (1) of Act 116 (MCL 722.112(1))

*The department ... is responsible for the development of rules for the care and protection of children in organizations covered in this act ...*

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Section 3 (3) of Act 116 (MCL 722.113(3))

*The rules promulgated by the department for foster family homes and foster family group homes shall be used by a licensed child placing agency or an approved governmental unit when investigating and certifying a foster family home or a foster family group home.*

As stated above, the administrative rules promulgated for child placing agencies and foster homes have the weight of law.

### **Are Foster Home Certification Procedures Mandatory?**

Each section of this TA Manual begins with the applicable part of the statute and/or the relevant administrative rule. Procedures that are mandatory are clearly identified as mandatory. Suggestions for achieving compliance or determining compliance are included where pertinent.

### **The Relationship between the Division of Child Welfare Licensing and Child Placing Agencies**

Section 5(3) of Act 116 (MCL 722.115(3))

*The department may authorize a licensed child placing agency or an approved governmental unit to investigate a foster family home or a foster family group home pursuant to subsection (1) and to certify that the foster family home or foster family group home meets the licensing requirements prescribed by this Act ...*

Section 8a.(2) of Act 116 (MCL 722.118a(2))

*The department may authorize a licensed child placing agency or an approved governmental unit to periodically assess a licensed foster family home or a licensed foster family group home pursuant to subsection (1) and to certify that the foster family home or foster family group home continues to comply with this act and the rules promulgated under this act ...*

The Division of Child Welfare Licensing has authority to license private child placing agencies and approve public child placing agencies and governmental units (family courts) that certify foster homes for licensure.

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**R 400.12301 Department Authorization (CPA Rule)**

- (1) *An agency shall be authorized by the department to certify foster homes for licensure.*
- (2) *An approved governmental unit shall comply with the provisions of this part to be authorized to certify foster homes for licensure.*

DCWL is the administrative unit identified to carry out the function of determining whether child placing agencies and approved governmental units comply with the Licensing Rules for Child Placing Agencies as required by Section 8a (1) of Act 116.

Section 3(4) of Act 116 (MCL 722.113(4))

*Inspection reports completed by state agencies, local authorities, and child placing agencies, shall be furnished to the department and shall become a part of its evaluation for licensing of organizations covered by this act. After careful consideration of the reports and consultation where necessary, the department shall assume responsibility for the final determination of the issuance, denial, revocation, or provisional nature of licenses issued to nongovernmental organizations. A license shall be issued to a specific person or organization at a specific location, shall be nontransferable, and shall remain the property of the department.*

Based on the statutory language above, the Michigan Legislature has created a system of shared roles and responsibilities in the certification and licensing of foster family homes and foster family group homes. It is a system of certifying and licensing homes that recognizes the individual needs of each child placing agency, while also recognizing the need for uniformity and consistency within the process.

The Division of Child Welfare Licensing issues licenses to private child placing agencies and certificates of approval to public child placing agencies and approved governmental units. The terms of the licenses or certificates of approval issued under the Child Placing Agency Rules may include authorization to investigate applicants for a foster family license and to certify that these applicants meet the licensing requirements. This authorization is dependent upon the agency's compliance with Part 3 of the Child Placing Agency Rules.

**R 400.12302 Program Statement (CPA Rule)**

*An agency shall have and follow a current written program statement that includes all of the following information:*

- (a) *Types of foster care provided.*
- (b) *Age, race, ethnic background, and specific characteristics of children served.*

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- (c) *Types and numbers of foster homes needed.*
- (d) *Types of services provided to foster families.*
- (e) *Geographical area covered.*

Each child placing agency has the flexibility to recruit only those foster homes that are suitable for the children the agency serves. If there are families the agency chooses to not serve based on firmly held religious beliefs, the program statement is to identify who the agency will not serve. Agencies are responsible for conducting the required onsite inspections and providing ongoing supervision to those foster homes certified by the agency.

### **R 400.12303 Policy and Procedures (CPA Rule)**

- (1) *An agency shall have and follow written policies and procedures for assessing and certifying foster homes for licensure. An agency may not have a policy related to certifying homes that violates section 102 of the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 372.102.*
- (2) *Policies and procedures shall cover all of the following areas and be on forms provided, and in a manner prescribed, by the department:*
  - (a) *Recruitment and retention.*
  - (b) *Certification training.*
  - (c) *Application request.*
  - (d) *Orientation.*
  - (e) *Application submission.*
  - (f) *Records check.*
  - (g) *Initial evaluation.*
  - (h) *Foster parent/agency agreement.*
  - (i) *Foster parent training.*
  - (j) *Behavior Management.*
  - (k) *Religion.*
  - (l) *Communication.*
  - (m) *Personal possessions.*
  - (n) *Allowance and money.*
  - (o) *Clothing.*
  - (p) *Substitute care.*
  - (q) *Supervision.*
  - (r) *Hazardous materials.*
  - (s) *Unusual Incidents.*
  - (t) *Emergency policy.*
  - (u) *Reevaluation.*
  - (v) *License recommendation.*
  - (w) *Borrowed home.*
  - (x) *Special evaluation.*
  - (y) *Foster home record.*



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Consistency among all child placing agencies is necessary so that the application of rules does not discriminate in favor of or against any person.

Child Placing Agencies have dual interest:

- The certification of foster homes for licensure (**Protection through Prevention**)
- The placement of children (**Protection through Placement**)

### THE ROLE OF CHILD PLACING AGENCIES

1. To provide orientation to prospective foster parents.
2. To investigate and assess families to determine if they comply with the rules and can work with the agency to provide care to the children served by the agency.
3. To share their findings and assessment with families who apply for a foster home license.
4. To make a recommendation to the Division of Child Welfare Licensing to issue a license or deny a license to applicants after the initial evaluation is completed.
5. To provide training to foster parents.
6. To complete an investigation when information is received that relates to a possible violation of foster home licensing rules or the child care organization act and make a determination of compliance with the applicable rules and statute. The agency is to make a licensing recommendation based on the determination of compliance with the applicable rules and statute.
7. To complete annual and renewal on-site evaluations of licensed foster homes in a timely manner.
8. To maintain foster home files and records.
9. To notify the Division of Child Welfare Licensing when there are any changes to a license.

### THE ROLE OF THE DIVISION OF CHILD WELFARE LICENSING

1. To develop licensing rules.
2. To develop forms and procedures for licensing.
3. To make the final determination regarding the issuing, denying, refusing to renew, or revoking of licenses or the issuance of provisional licenses based on the recommendations of the certifying agency.
4. To determine if agencies that certify foster homes for licensure comply with the licensing rules for child placing agencies.
5. To respond to requests for information under the "Freedom of Information Act".
6. To provide certification and special evaluation/complaint training.

## **The Relationship between Child Placing Agency Rules and Foster Family Home Rules**

As noted above, Child Placing Agencies and Approved Governmental Units may be authorized by DCWL to certify private homes for licensure as foster homes. Part 3 of the Child Placing Agency rules governs how this process is to take place. In addition, Section 3(3) of Act 116 indicates that the foster home rules promulgated by the department shall be used by the child placing agency or approved governmental unit when investigating and certifying a foster home. Part 4 of the child placing agency rules covers foster care services and outlines a number of policies and procedures that agencies must have related to the delivery of foster care services. These written policies must be shared with foster home applicants and licensees.

Individual foster families must comply with the foster home rules. It is the responsibility of the certifying agency to determine compliance with these rules when certifying a family for licensure, and when maintaining an existing license.

### **Recruitment and Retention**

#### **R 400.12304 Recruitment and Retention (CPA Rule)**

- (1) An agency shall have an ongoing foster home recruitment program to ensure an adequate number of suitable and qualified homes to meet the needs of children served by the agency.*
- (2) An agency shall develop, implement, and maintain a program of foster home retention that includes foster parent involvement.*

#### **Communication of Need During Recruitment**

Certifying agencies are to indicate their intention to recruit only those families willing to care for the types of children they have available for placement. Information included in television and radio public service announcements, as well as newspaper advertisements and agency websites, can be geared to recruit foster families according to the current and projected types of children a specific agency will have available for placement.

Certifying agencies are to include targeted recruitment for specific populations that the agency serves and where there is a need for additional foster homes to meet the needs of the children served.

#### **Responding to Inquiries**

A record of all inquiries is to be retained in accordance with the agency's recruitment policy. Inquirers that do not fit the agency's current recruitment needs, based on the information in the agency program statement, may be

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referred to other certifying agencies. The agency may not have any policies on recruitment or certification that violate the Elliott-Larsen Civil Rights Act. Any inquiry received by a person eighteen years of age or older who expresses a willingness to provide care for children who are served by the agency should be included in the recruitment record.

Approved DHHS offices and agencies that have a contract with DHHS must maintain inquiry records in MiSACWIS.

The record must include:

- Who recorded the inquiry?
- The date of the inquiry.
- Referral source.
- Name(s), address, and phone number of the inquirer.

### Response of Certifying Agency

The certifying agency shall promptly respond to all inquiries. Generally, families have given considerable thought to the idea of fostering prior to responding to an agency recruitment effort.

The certifying agency may respond by:

- Arranging timely group/individual orientation for all inquirers.
- Making an appointment for a home visit.
- Mailing information to the inquirer.
- Referring the inquirer to a foster home navigator.

An agency may NOT include an application form (BCAL-3889) in mailed information unless the inquirer has received the orientation required by rule. Agencies may choose to use foster parent mentors or foster home navigators to respond to inquiries. This is a way to offer the inquirer personal contact from an individual who can provide first-hand knowledge and information about foster parenting with the agency.

### Retention of Foster Homes

Retention of foster homes is to be part of an agency's overall plan to assure adequate numbers of foster families for the children served by the agency. The plan developed by the agency must include foster parent involvement. The plan must also identify the causes of the loss of foster homes and actions that will be taken by the agency to retain foster homes.

## **Orientation and Application**

### **R 400.12307 Orientation (CPA Rule)**

*An agency foster parent orientation shall consist of all of the following areas:*

- (a) Purposes of foster care.*
- (b) Characteristics and needs of the children placed by the agency.*
- (c) Attachment and separation issues.*
- (d) Impact of fostering on the foster family.*
- (e) Role of the foster family.*
- (f) Licensing process.*
- (g) Grievance procedure.*
- (h) Importance of a child's family.*
- (i) Parent and sibling visits.*
- (j) Agency foster care policies and procedures.*
- (k) Agency foster parent training requirements.*
- (l) Supportive services and resources.*
- (m) Provisions of the children's ombudsman act.*
- (n) Provisions of the child protection act.*
- (o) Foster care review board appeal procedures.*

### **R 400.9203 Orientation (FH Rule)**

*Before completing and submitting an application for an original license or transferring a license to another certifying agency, each applicant/licensee for a foster home license shall attend orientation pursuant to R 400.12307(CPA).*

The agency is to follow their written foster parent orientation policy, which is required by R 400.12303 (CPA).

The method of delivery for orientation is not defined by rule. Each agency is responsible for identifying in their written orientation policy what methods of delivery will be used, the total content of the orientation, and how many hours of orientation are required by the agency.

Prior to providing an inquirer with an application, the agency must provide timely orientation on, at a minimum, those topics identified in R 400.12307(CPA).

Orientation is to include critical information from Public Act 116 that precludes licensure, such as Central Registry substantiations and convictions of crimes identified in Public Act 116. The information should explain that a history of conviction of Specified Crimes as listed in the Good Moral Character (BCAL Publication 673) may preclude licensure and must be reviewed by DCWL as well as the certifying agency.

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In a two-caregiver home, both inquirers must attend orientation. If there are more than two caregivers in the home who will be named on the license, all caregivers must attend orientation. When an additional person is being added to an existing license, the new applicant must be provided with orientation.

Providing an application to interested parties after orientation does not obligate parties to sign the application form at that time. The application may be taken home so the potential applicant has time to consider whether this is the time for them to apply, or if they are interested.

### **R 400.9201 Foster Home applicant/licensee qualifications (FH Rule)**

*A foster home applicant or licensee shall meet all of the following qualifications:*

- (a) Be 18 years of age or older.*
- (b) Be of good moral character.*
- (c) Express a willingness to provide care for children who are served by the agency.*
- (d) Demonstrate an understanding of the care which must be provided to the children served by the agency.*
- (e) Express a willingness to learn how to provide care to children served by the agency.*
- (f) Have adequate time to provide care and supervision for the children.*
- (g) Have a defined legal source of income, and be capable of managing that income, to meet the needs of the foster family.*
- (h) Be of such physical, mental, and emotional health to assure appropriate care of children.*
- (i) Express a willingness, and demonstrate the ability, to work with a foster child's family or future family.*
- (j) Be of responsible character and be suitable and able to meet the needs of children and provide for their care, supervision, and protection.*
- (k) Demonstrate a willingness and ability to comply with the licensing rules for foster homes.*
- (l) Be residing in the United States legally.*

### Rule Interpretation

- (a) The minimum age for foster parents is 18 years of age. There is no maximum age for foster parents. The agency may not further restrict age requirements. As with other parts of this rule, an assessment must be done if the age of the applicant is seen as a barrier to the person providing an acceptable level of care for children that might be placed in the home.
- (b) The standards for determining good moral character are covered in the Evaluation of Record Clearances section of this TA Manual. **(Page 27)**

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- (c) The agency program statement must clearly identify the types of children served by the agency. See R 400.12302 (CPA). This allows an applicant to make an informed decision regarding willingness to care for children the agency serves.
- (d) The agency is to assess the applicant's general knowledge of normal child development and how to meet the needs of children. The agency is to also assess how the applicant will be able to provide care to children who have experienced trauma, have cognitive or development delays, who are not well socialized because of parental abuse or neglect, who are behind educationally, who have attachment disorders or other conditions that are often present in the children needing care.
- (e) Does the applicant/licensee express a willingness to learn? Did the applicant pay attention during orientation and pre-licensure classes? If the licensee has children with challenging behaviors, does the person seek outside help or ask questions to increase knowledge and awareness?

Additional questions for assessing these topics might be:

- Do you have children of your own? Do any of your children have physical or emotional challenges?
  - What experiences have you had in raising children or caring for children on an ongoing basis?
  - Do you know what resources are in your community?
  - Are you aware of the effects of trauma on children?
  - How do you think abuse or neglect could affect a child's developmental level?
- (f) Does the applicant/licensee have the time to provide for the care of the children?
- Does the agency expect the foster parent to provide transportation to visits and therapy?
  - How often does agency staff visit the foster home and who needs to be present when the visits take place?
  - Do work schedules allow for time to be spent with the foster children?
  - Does the applicant/licensee realize the amount of time that will be required to meet the needs of foster children? Agencies may wish to use tools such as eco-maps and projective eco-maps, 24-hour clocks, etc. in helping applicant/licensees explore whether they have the time to foster.
  - If the foster parent works, who will supervise the children during work time?
  - If they work second or third shift schedule, do they want school aged children? When will they have time to spend with the children?

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- Does the applicant/licensee belong to clubs, sports teams, or other organizations that take a lot of time?
  - Will the applicant/licensee have to change their leisure time activities to have time to meet the needs of the foster children?
  - Who will provide substitute care?
  - What is the support network for the prospective foster parent, especially if s/he is single?
  - Will the needs of the other members of the household allow adequate time for the applicant/licensee to also provide for the needs of the foster children?
- (g) The applicant/licensee must have adequate and legal income to meet the needs of the family without foster care payments. Legal income is defined as income reported to the Internal Revenue Service by the applicant/ licensee, i.e., employment, pensions, investments, public assistance, adoption subsidy, etc. The agency must obtain verification of income from pay stubs, previous income tax records, bank statements, child support records, disability award records, etc.

If a family is receiving income that is time limited, such as public assistance, unemployment, or adoption subsidy, the agency is to obtain information from the source to determine when the income will expire and how the family intends to replace the income when it ends. Does the person receiving unemployment have a stable work history and actively looking for employment? Child support may be considered income if the agency has verified through Friend of the Court that it has been consistent over a period of time, but is also time limited in nature and must be evaluated in relationship to the age of the children support is being paid for.

The applicant/licensee must be able to manage their income to pay their bills. The agency must ask for verification and should retain copies of the family's expenses, including but not limited to, rent, rental insurance, house payments including taxes and insurance, utilities (heat, gas, water and electric), car payments, car insurance, telephone (home and cell), internet, cable, gasoline, credit debt, student loans, child support, pet supplies, etc. Routine expenses such as food, clothing, hygiene, house maintenance, charitable donations, and entertainment, tobacco, etc., should also be included when determining if the family has sufficient income to meet their needs. There must also be an assessment of whether the figures provided by the applicant are realistic. For example, a family of four cannot realistically feed the family for \$200 a month.

When determining ability to manage income to meet the needs of the foster family, the following are to be considered:

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- Bankruptcy: When did it occur? Why did it occur? What type of bankruptcy was it? What is different now?
- Foreclosure: When did it occur? Why did it occur? What is different now? Are they living in a home pending foreclosure?
- Child support arrearages: Why are they in arrearage? How much is in arrearage? How long have they been in arrearage? What is the current payment plan? How long before they are current with child support? Why should the person be paid to care for someone else's children when they are not meeting their obligations to take care of their own children?
- Past Due Bills: Need to be assessed using the same questions above to determine if they are capable of managing their income.

Foster care payments are reimbursement for care provided and are not to be considered as income. The foster care reimbursement and clothing allowances generally take a few weeks to arrive after the placement of a child. The agency must evaluate the family's ability to cover the additional costs for food and clothing until the foster care reimbursement starts.

Income that is not considered legal:

- "Under the table" employment or income that is earned in cash and not reported
- Unlicensed Daycare
- Unlicensed Beauticians
- Unreported rental property income
- Credit cards, student loans
- "Gifted money" from other sources (not claimed on taxes)

While tax refunds are legal, they are not ongoing income.

- (h) When determining the physical, mental, and emotional health of an applicant/licensee, the following should be considered:
- If an applicant/licensee is receiving RSDI or SSI from the Social Security Administration for a disability, the agency must determine if the reason for disability will affect the applicant's /licensee's ability to provide foster care.
  - There must be verification of the reason/diagnosis for disability eligibility.
  - If the applicant/licensee takes prescribed medication, list the medications and possible side effects.
  - Physical, mental, and emotional diagnoses: Do they impair the ability to provide foster care?
  - Compliance with prescribed treatment for medical/mental health problems.
  - Substance abuse issues: Both past and current issues must be assessed. Did the person go through treatment? Does the person currently engage in a 12 step program, such as AA or NA?



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- (i) When determining the applicant/licensee's willingness and ability to work with a foster child's family or future family, the following are to be considered:
- Will the applicant/licensee be able to support family reunification when birth parents have previously neglected or abused their children?
  - Is the applicant/licensee willing to discuss the progress children have made, as well as the problems they are having, with the birth parents?
  - Is the applicant/licensee willing to share decision-making with birth parents?
  - Is the applicant/licensee willing to have family visits in their home?
  - Will the applicant/licensee work with potential adoptive families the agency identifies for a child?

An applicant/licensee's relationship with a birth parent, whether legally related or not, can run from being overly supportive to being overtly contentious. The agency should stress the importance of working with the birth parent as well as the need to comply with any restrictions that are in the case plan and in court orders regarding the foster child and the child's birth parents.

- (j) When determining if an applicant/licensee has responsible character and is suitable to meet the needs of the children and provide for their care, supervision, and protection, the following are to be considered:

Responsible Character is the ability to:

- Distinguish between right and wrong.
- Think and act rationally.
- Be accountable for one's own behavior.
- Be dependable, reliable, and be able to pay debts and meet family obligations.

Suitable means the applicant(s):

- Is truthful.
- Does not have a criminal history that could affect the safety of welfare of children in care.
- Is capable of making appropriate judgments.
- Is knowledgeable of the developmental needs of children of varying ages.
- Conducts oneself in a way that rule requirements are met.
- Is not on central registry as a perpetrator of child abuse and neglect.
- Does not have a substantial history with CPS involvement.

- (k) When determining a willingness and ability to comply with the licensing rules for foster homes, the following should be considered:

- Has the applicant/licensee been cooperative with agency staff, including courts, the CPA, adoption workers, foster care workers, CPS (MIC), etc.
- How has the applicant/licensee responded to agency requests? Have responses to requests been timely?

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- (l) When determining if an applicant/licensee is a legal resident of the United States, the following are ways to verify legal status:
- Birth certificate.
  - Visa: What type of Visa? When was it issued? What is the expiration? What is the long term plan when expiration occurs?
  - Green Card: When was it issued? When is the renewal date? What is the long term plan?
  - Naturalization papers.

The subsections of Foster Home Rule R400.9201 identify the qualifications for applicants/licensee for a foster family home license or a foster family group home license.

Agencies **may not** specify other qualification criteria, such as but not limited to: length of time a couple is married; whether a couple is living together but not married; length of sobriety; the maximum number of biological children a family may have when it is less than the number allowed by Foster Home Rule R 400.9401(1), or anything else prohibited by the Elliott-Larsen Civil Rights Act.

### **R 400.12306 Application Request (CPA Rule)**

- (1) *An agency shall provide an orientation for prospective applicants for a foster home license before a foster home application is provided.*
- (2) *An agency shall document that applicant expresses a willingness to care for the types of children served by the agency before providing a foster home application.*
- (3) *An agency shall document that a person who has met the requirements of subrule (1) of this rule has received an application and information regarding all of the following:*
  - (a) *A copy of the act.*
  - (b) *Administrative rules for foster homes.*
  - (c) *Administrative rules for child placing agencies.*
  - (d) *Good moral character rules.*
  - (e) *The child protection law.*
  - (f) *The children's ombudsman act.*
  - (g) *The agency's program statement.*
  - (h) *The agency's foster care services policies.*
  - (i) *The agency's foster parent training requirements.*
  - (j) *An agency shall document that the licensee has been given an application for renewal of the license not less than 60 calendar days before the expiration of the license.*

A signed document provides verification of compliance with subparts (1) and (2) of the Rule above.

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## CHILDREN'S FOSTER HOME LICENSING TECHNICAL ASSISTANCE (TA) MANUAL

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### Importance of Needs Assessment

Act No. 116, Section 5(1), (MCL 722.115 (1))

*If satisfied as to the need for a child care organization, its financial stability, the good character and intent of the applicant, and that the services and facilities are conducive to the welfare of children, the license shall be issued.*

The assessment of need conducted by the certifying agency, in accordance with CPA Rule 400.12306(a), is an important aspect of the decision to provide an application and to recommend the issuance of a license. If the inquirer is not interested in the type of child served by the agency, then there is no “need” for the proposed foster home and the certifying agency can decline to provide an application.

**NOTE:** To meet this “needs test”, all that is required of an inquirer is to express a willingness to provide care for the types of children identified in the agency’s program statement.

### **R 400.12308 Application submission (CPA Rule)**

- (1) An agency shall act on a completed and signed application.*
- (2) An agency shall require both caregivers in a 2 caregiver household to sign the application.*
- (3) An agency may consider an application withdrawn after 60 days if the applicant fails to cooperate with the completion of the licensing process.*

Once an application is signed, the agency must make a recommendation based on the facts provided. Applications with current non-compliances may not be automatically withdrawn if the applicants are not cooperating. The non-compliances likely warrant a recommendation of a denial. In order to determine whether an applicant has failed to cooperate, three letters attempting to engage the applicants must be completed and filed before the application can be withdrawn.

### **R 400.9204 Application submission (FH Rule)**

- (1) A foster home applicant shall complete, sign, and submit an application within 30 days of receiving an application. If an application is not submitted within 30 days of receipt, the application shall be considered withdrawn.*
- (2) In a 2-caregiver household, both caregivers shall sign the application.*

### **Record Clearances and Enrollment**

The BCAL-3889, Children's Foster Home License Application, is a mandatory form and a legal document. The completion and signing of the application gives the agency permission to conduct the licensing investigation. **The agency cannot do any licensing tasks without the signed and dated application. Agencies may not hold the application for signature until the end of the home study process to avoid going beyond the required 180 day time frame from date of application for the processing of an application. If the licensing process takes longer than 180 days, the agency is NOT to obtain a new application with a new signature date.**

The child placing agency **does not have the authority** to ask an individual who has not signed an application to provide the agency with any information beyond the information needed to complete an inquiry. (i.e. Local I-Chats, Central Registry, etc.). The BCAL-3889 is the official authorization for release of information. **Pre-screening potential applicants and inquirers is a violation of rule 400.12306.**

It is the responsibility of the applicant(s) to complete and sign the application form and return it to the agency. If the applicant needs assistance in completing the form, s/he may contact the certifying agency and ask for assistance. The agency is to clearly explain the application form to prospective applicants and make it clear that the signatures on the application form allow the agency to conduct an evaluation of all household members and the home to determine compliance with the applicable rules.

In a two caregiver household, both caregivers must sign the application. This would include a husband and wife; a married couple where both individuals are the same gender; two adult living together partners, regardless of gender; or two other adults who will share the caregiver role. When a third person in the household will be sharing the caregiver role, a third person's information and signature must be on a BCAL-3889. As there is only room for two names on the BCAL-3889, an additional form may be used, but on each form there should be some indication the forms are a single application.

Once the agency receives the completed and signed application, agency staff must conduct an evaluation. Sometimes an applicant does not thoroughly complete the application or does not complete the application in its entirety, but does provide a signature. This does not mean that the agency does not act on a partially completed application, it means the agency must help the applicant to complete the application.

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The applicant(s) may withdraw the application at any time prior to the certifying agency making a final licensing recommendation as long as no rule violation has been determined. If the application is withdrawn, the certifying agency stops the evaluation and confirms that fact to the applicant(s) in writing.

An applicant may not withdraw an application if the agency has determined there is noncompliance with one or more rules. The application must be submitted to DCWL with a recommendation of denial.

**NOTE:** See the section of this TA Manual on disciplinary licensing actions before proceeding with a denial of issuance recommendation

### **R 400.12309 Records check (CPA Rule)**

- (1) An agency shall, upon receipt of an application, request the department state police to conduct both a criminal history check and a criminal records check through the federal bureau of investigations for applicants. The agency shall also request the department to conduct a criminal history check on all persons residing in the home over 18 years of age. Additional checks shall pertain to previous licenses and substantiated child abuse and neglect records for all applicants and persons residing in the home 18 years of age or over.*
- (2) An agency shall initiate a new records check if it receives information indicating a lack of good character or suitability of any person residing in the home who is 18 years of age or over who is not a licensee.*
- (3) An agency shall initiate a criminal history check of a resident minor within 30 days after turning 18 years of age.*

### **R 400.9205 Records check (FH Rule)**

- (1) A foster home applicant/licensee shall provide the agency with the name of, and a signed release to obtain any of the following information about, each adult member of the household, including children who turn 18 years of age while living in the home:
  - (a) Conviction of a crime other than a minor traffic violation.*
  - (b) Involvement in substantiated abuse or neglect of a child or adult.*
  - (c) Placement on court-supervised parole or probation.**
- (2) By the next working day after another adult moves into a currently licensed foster home, or upon the request of the agency, a foster parent shall provide the agency with the name of the adult and a signed release to obtain the information required in subrule (1) of this rule.*
- (3) If an applicant/licensee, or adult household member is identified on central registry as a perpetrator of child abuse or neglect in this state or any other state or Canadian province, he or she shall not be licensed or reside in a licensed foster home.*

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## CHILDREN'S FOSTER HOME LICENSING TECHNICAL ASSISTANCE (TA) MANUAL

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### Records Check Process

When an application to operate a foster home has been submitted to the agency, it is the responsibility of the certifying agency to initiate criminal history check(s) and protective services checks for each adult in the home. The purpose of these checks is to assist the certifying agency in assessing the “good moral character” and “responsible character” of adults in the household.

Records checks are completed concerning three separate histories:

- Criminal convictions
- Protective services Central Registry records
- Prior licensing records.

### **Fingerprinting**

The Child Care Organizations Act, Public Act 116 of 1973, requires the fingerprinting of applicants for adoption and foster home licensure. The Michigan legislature has enacted this statutory requirement to comply with the requirements set forth in the “Adam Walsh Child Protection & Safety Act”, H.R. 4472 of 2006, which is federal law, related to foster care maintenance funding paid under Title IV-E of the United States Social Security Act.

Michigan is utilizing a form of electronic fingerprinting called “live scan”, which allows for automated fingerprint analysis and transmission of results and long-term storage of fingerprints in a database administered by the Michigan State Police (MSP).

The Department of Health and Human Services (DHHS) contracts with a private company to perform the live scan fingerprinting, by appointment, at multiple sites in Michigan.

The License Record Clearance Request form (CWL-1326CW) is used to obtain electronic fingerprint criminal history checks for applicants and licensees. This is a mandatory form. **The application date must be on or before the date of the CWL-1326CW form. The CWL-1326CW signature must be on or before the date of fingerprinting. If the dates are not as stated above, fingerprint results will not be released to the certifying agency. New fingerprints must then be obtained.**

A separate CWL-1326CW form must be completed for all adult household members. Adult household members are defined by Act 116 as any person, other than foster children, who resides in a foster home on an ongoing or recurrent basis.

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## CHILDREN'S FOSTER HOME LICENSING TECHNICAL ASSISTANCE (TA) MANUAL

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When determining who is a household member, the following must be considered:

- Household members do not have to legally reside in the home or spend the night to be considered a household member
- Adult children who are in college, but continue to visit the home during holiday breaks and/or summer breaks are considered household members
- Children who visit the home on a regular basis as part of custody arrangements are considered household members
- Significant others who reside elsewhere but are in the home on an ongoing and reoccurring basis are household members.
- Any other individual who is in the home on an ongoing and reoccurring basis is considered a household member.

The statute **does not** require fingerprinting of adult members of the household. It does, however, require a CWL-1326CW be completed for each adult member of the household (not including licensees who have been fingerprinted) and sent along with the BCAL-3706 and BCAL-3889 submitted for renewal, at every renewal. See CPA R 400.12313.

Once an applicant/licensee has been fingerprinted there is no requirement for criminal history checks to be redone (unless relicensing a home that has been closed for over one year), as the agency will automatically be provided any information regarding additional activity via the rap-back feature of the fingerprinting process. The rap-back system provides notification, via e-mail, to DCWL immediately whenever any new information pertaining to arrest and/or convictions is posted to the rapsheet associated with an applicant/licensee who has been fingerprinted for licensure as a foster parent. DCWL will then forward a copy of the notification to the certifying agency via e-mail or U.S. mail.

Record checks must be completed when:

- A child living in the home turns 18 (including foster children).
- An adult person moves into the home.
- The adult household members need to complete a BCAL-1326CW at each renewal.
- There is a change of licensee group, i.e. adding a licensee to an existing license. When a licensee is being added to an existing license, the BCAL-1326 CW must be completed and the person must be fingerprinted.

Record checks via a CWL-1326CW are **not** to be completed for substitute caregivers. The Division of Child Welfare Licensing **will not** complete record checks for substitute caregivers. Agencies must complete record checks for primary substitute caregivers I-CHAT. They also must complete central registry clearances through the local DHHS office.

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ICHAT is an online resource that allows criminal record checks. Use of ICHAT does not include a children's protective service (CPS) check. Non-profit agencies are able to obtain police clearance information through ICHAT. See <http://apps.michigan.gov/ichat/home.aspx> for further information on ICHAT and other available on-line services.

If a foster family has an exchange student from another country, the clearances completed by the agency that sponsors the exchange process are sufficient if the sponsoring agency is a nationally recognized agency, such as AFS-USA, ASSE International, Alliance Exchange, etc.

### Licensing Record Clearance Request Procedures

#### Section I

- Is to be completed by the agency
- Requestor Information must contain the name and direct telephone number of the person in the agency who is requesting the record check in addition to the name and address of the agency requesting the check. The agency's CPA license number must also be entered in this section.

**NOTE: Do not omit your agency's license # or DCWL will be unable to link fingerprint results with the agency that requested them.**

- Licensee/Applicant Name is the name of the couple or individual, i.e., John and Mary Smith or Susan Jones, who are [to be] named on the license. In the case of an adult member of the household, this name will not be the same as the name of the person being cleared in Section II.
- License Number is the foster home license number, assigned by DCWL. For new applicants, the box should be left blank.
- Foster Parent-AWF (section 1) type is to be checked when the agency has received the BCAL-3889 for a foster home license. **If you check anything other than Foster Parent- AWF, the information cannot be released to the agency for licensing purposes and the foster parent will need to be re-fingerprinted with the correct code (Foster Parent-AWF).**
- The role of the Person being cleared is to be indicated by checking Applicant/Licensee, or Adult Member of the Household.
- The Livescan Fingerprint Request box in the upper right-hand corner of the CWL-1326CW has three categories of people that are fingerprinted.



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Each category is assigned a 3-letter code and agency ID # on the CWL-1326CW – e.g. foster home license applicants or active licensees (AWF) – **Agency ID#: 68465P**. The AWF-Foster Parent-Agency ID#: 68465P is the category that needs to be selected. The CPA worker checks the correct application type and checks the corresponding box located in the upper right hand corner of the CWL-1326CW. **The correct code must also be used when the agency is registering the person for fingerprinting.**

### **Section II**

- Is to be completed by the person whose record is being checked.
- The agency worker is to review the form to make sure that all items are completed, that the information entered is legible and to verify that all the information provided on the form is accurate, including the date of birth, social security number and driver's license or state ID number of the individual.
- The item identified "ALSO KNOWN AS" is to be filled in for anyone who has used another name.
  - Maiden names
  - Previous married names
  - Name changes
  - Aliases
- If the person has not used any other names, indicate NONE in the box provided or it will be returned to the agency by DCWL.
- The item identified "Other states resided in during past 5 years" must be completed.
  - If the applicant/licensee or any adult member of the household has resided in another state and/or country in the past 5 years, a central registry clearance must be obtained from that state/country. This is a requirement of the federal government for IVE funding.

It is critical that the applicant's name is written on the CWL-1326CW in exactly the same as the name appears on the BCAL-3706 otherwise the electronic fingerprint results may not link with the applicant's existing record in BITS. The name should be the person's legal name, i.e. Robert instead of Bob, Jennifer instead of Jenny, etc. and is to match the name on the person's driver's license of state ID.

The agency must pay particular attention to make sure the individual has answered the question, "Have you ever been convicted of a crime, felony or misdemeanor?" If the individual has checked "yes", an explanation, date(s) and type of offense(s), must be written on the lines that follow. If any portion of this section is incomplete, the form will be returned to the agency without being processed.

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The person being fingerprinted or cleared must sign and date the form. The agency is to make a copy of the completed form. For applicants/licensees being fingerprinted, the original form must be returned to them to take to their appointment so the TCN number can be recorded on the form. Please refer to the licensing web page to see the most current information on arranging fingerprint appointments. **Be sure to mark AWF when registering the person for fingerprinting or the applicant/licensee will need to redo fingerprints.** If an applicant is being assessed for both licensure and adoption at the same time, **the agency is to schedule two back to back appointments.** One will be for code **AWF** and the other for **AWA**.

**NOTE:** All individuals being fingerprinted must present picture identification to the contractor.

- The contractor conducting the fingerprint scan completes the CWL-1326CW – box entitled “LIVESCAN FINGERPRINT REQUEST”. This includes the TCN number (a tracking number used for identifying the individual scan); the date the fingerprint is completed; and the type of picture identification presented and returns the CWL-1326CW to the applicant/licensee. The applicant/licensee must not destroy or misplace this form, as the form is verification that the person signed to have their fingerprints done for the reason stated and because the TCN number is the only tracking mechanism available to the MSP if problems occur in transmitting results to DHS. The applicant/licensee must return the original form to the agency for processing of the licensing action.
- **Payment** - DHS will pay the contractor’s fingerprint fee for all foster home applicants, licensees and foster child adoption applicants through a billing system and contract with the contractor. The contractor will expect private domestic adoption applicants to pay the fee at the time of the fingerprinting.
- The contractor transmits the fingerprint scan to the Michigan State Police (MSP). The MSP database runs a Michigan criminal history clearance and acquires a national clearance from the FBI. The MSP will electronically transmit the FBI and Michigan clearance results to DCWL. DCWL will provide both clearances to the Child Placing Agency that initiated the request.

**Section III and Section IV will be completed by DCWL Central Office.**

### **Enrollment Procedures**

All properly completed initial license applications are required to be enrolled into the Bureau Information Tracking System (BITS). Agency certification workers are to submit applications for enrollment once the applicant has completed the records check process.

The agency certification worker is to send all of the original CWL-1326CWs for each applicant and adult member of the household along with the original BCAL-3889 to:

**Division of Child Welfare Licensing  
P.O. Box 30650  
Lansing, MI 48909-0850**

- All CWL-1326CW forms are date stamped, by DCWL with the date of receipt in the Lansing office.
- The CWL-1326CW and the BCAL-3889 are matched up with the results of the livescan fingerprints for applicants.
- DCWL will complete clearances on applicant/licensee:
  - Secretary of State (SOS)
  - Central Registry (CPS)
  - Previous Registration/License
- DCWL will complete clearances on adult household members:
  - ICHAT  
The ICHAT system has information on convictions that have been reported to the Michigan State Police system from a local law enforcement agency. An individual may have convictions that have not been reported to the ICHAT system. The information received from the ICHAT system meets the requirement for a records check of criminal convictions for adult members of the household.
  - Secretary of State (SOS)
  - Central Registry (CPS)
  - Previous Registration/License
- Public Sex Offender Registry (PSOR) is checked for the address of the licensee/applicant to determine if anyone has used that address for the registry. A license will not be issued if PSOR shows any sex offender registered as living at the address of the licensee/applicant.

### **Evaluation of Record Clearances**

When the application and the completed CWL-1326CW(s) are returned to the child-placing agency, the information in sections III and IV must be evaluated by the agency.

- **Public Sex Offender Registry (PSOR):**
  - If the box is checked yes, then the agency will receive an additional document for review. The agency will then need to determine if the sex offender is in the home.
  - There are times where someone used this address in the past and has not re-registered on the sex offender registry. If this is the case, then the applicant will have to contact their local law enforcement to prompt an investigation to have this name removed from their address.
  - If your applicant or household members are on PSOR, then the recommendation for licensure is to be denial.
  - If the box is checked no, no one is listed on PSOR using that address.
  
- **Secretary of State (SOS):**
  - If the box is checked yes, the agency will receive an additional document for review. The agency will then need to determine what the SOS discrepancy is.
    - The application address and the legal identification (driver's license/state ID) address must match. The applicant will need to correct this before licensure. PA 116 requires the licensee to live at the address being licensed.
    - The applicant/licensee may have an expired license.
      - The agency will need to assess why the license is expired and how transportation will be provided.
    - The applicant/licensee may have a suspended/revoked license.
      - The agency will need to assess why the license is suspended. Are there outstanding fines? Warrants? How are they being resolved? How transportation is being provided currently?
    - If the box is checked no:
      - An SOS discrepancy is not present.
      - DCWL will notify the agency if the applicant/licensee/household member does not have a driver's license or state ID. If the applicant/licensee does not have at least a state id, one will need to be obtained to verify who the person is.
  
- **Central Registry:**
  - If the box is checked yes, then the agency will receive an additional document (SWSS or MiSACWIS printout) that shows who is listed on central registry as a perpetrator of abuse or neglect.

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- The printout from SWSS will include the perpetrator's name, birth date, gender, role code, the date that the perpetrator was given due process notice regarding the right to expungement, the county where the substantiation took place, the DHS client ID, the CIMS Case #, and the complaint date.
- A printout from MiSACWIS will show the person's name and the person ID. The person ID is used to look up the person, and review and assess all of the MiSACWIS history.

The agency must also assess all applicants MISACWIS history, including all CPS involvement.

- Process for reviewing central registry matches:  
The agency must review the information and discuss it with the person identified as being on central registry. Occasionally, a printout will be returned because there is a name match with a birth date of 01/01/1901 or another estimated date of birth. This is the birth date entered by CPS on the Central Registry System when they did not know the person's actual birth date. The agency is to evaluate the information on the printout to determine if the person they are trying to assess and the person with the unknown birth date are a match.

Information to be evaluated is:

- Did the person ever live in the county where the case was entered on central registry?
- What was the applicant's status at the time of the incident? How old were they? Where did they live? Were they married or single? Did they have any children?

If the agency cannot make a determination as to whether the name on the printout is the same person from evaluating the information on the printout, the CPS supervisor in the county that entered the information on Central Registry is to be contacted. The CPS supervisor may have the actual birth date of the person named on Central Registry to assist in making the determination of whether it is the applicant. If there is no birth date available, the agency may be able to find the report in MiSACWIS for review. If the report cannot be located in MiSACWIS, the agency is to obtain the opening and closing reports from the CPS supervisor in the county that put the person on Central Registry and use the information contained therein to make the final determination.

The agency is to write directly ON THE PRINTOUT an explanation of the additional information obtained and how it was utilized to determine whether or not it is the applicant whose name is on Central Registry. This

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information and the methods by which the determination was reached are also to be outlined in the home study narrative in the BCAL-3130.

Indicating the birth date does not match is not sufficient to eliminate the possibility that the person is listed on the Central Registry, particularly if the person on the printout has an 01/01/1901 or other estimated birth date listed.

If it is determined that the person who was placed on Central Registry is an applicant/adult member of the household, the recommendation **must be** denial of issuance.

No administrative review will be conducted to determine the suitability of individuals listed on the Central Registry. The Children's Protective Services' decision to place a person on Central Registry is based on a determination that there is a preponderance of evidence that either child abuse or neglect occurred and there is a high probability that the abuse or neglect will reoccur.

If the applicant/member of the household disputes the findings of Children's Protective Services, the person whose name is on Central Registry may request to have their name expunged from the Central Registry. A written request should be sent to the Children's Protective Services Supervisor in the county DHHS office or the Maltreatment in Care Unit that put the person on Central Registry. The supervisor will make a determination of whether the case will be expunged or not. If the supervisor does expunge the case from Central Registry, the expunged, the applicant/licensee should provide written documentation that the case has been expunged.

If the local DHHS supervisor denies the request for expungement from an applicant/member of the household, the agency is to proceed with the recommendation for denial of issuance in a timely manner. The agency is not to hold the recommendation pending an administrative hearing on expungement and subsequent decision by the administrative law judge.

If the applicant/licensee/household member has had their name expunged from Central Registry, the agency is to assess the following:

- Review of the CPS report (if available)
- How long ago did it happen?
- What happened?
- When it was expunged?
- Why it was expunged?
- History of CPS involvement?

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- What do they tell you happened? What does the report state happened?
- Do they take responsibility?
- What have they learned?
- What would they do differently in the future?

Once the assessment is completed, the agency can still make the determination that a recommendation for DENIAL OF ISSUANCE is warranted.

**Note: Agencies are only to complete central registry clearances in MiSACWIS for their own applicant/licensees/adult household members.**

### OUT of STATE Clearances

Effective January 1, 2008, a licensed child placing agency working with an adoptive or foster home license applicant must conduct a check for substantiated child abuse or neglect in every state where the applicant or any adult household member has lived in the 5 years preceding application.

Below is a link for a list of ADAM WALSH State Contacts for Child Abuse Registries. The list also includes each state's requirements for submitting a child abuse and neglect background clearance.

[http://www.cclld.ca.gov/res/pdf/Revised\\_AW\\_Contact\\_List.pdf](http://www.cclld.ca.gov/res/pdf/Revised_AW_Contact_List.pdf)

When working on an out-of-state CPS clearance, the CPA worker must contact the office of the individual listed and request further information on that state's protocol for providing a licensing or adoptive applicant CPS clearance. Different states have different processes; for example, Michigan requires a mailed, faxed or email with attached written request on the requestor's letterhead.

If the CPA worker receives information of any out-of-state protective services registry history on an applicant, s/he may not recommend licensure until or unless that history is resolved with expunction. Currently, DHHS policy, statute, and licensing rules preclude licensing an individual who is listed on the Michigan Central Registry. This same policy applies to out-of-state registry "hits". In these instances, the certifying agency must recommend denial of issuance. If the other state indicates that they do not have a central registry, a copy of written correspondence indicating that must be attached to the CWL-1326CW and uploaded into MiSACWIS.

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- **Process of reviewing previous licenses**
  - If the box is checked yes, the family has been previously enrolled or licensed for foster care, child care, or adult foster care.
  - If the previous license was for a foster home, the certifying agency is to contact the agency where the family was previously licensed and obtain a copy of the file, if available.
  - The file is to be thoroughly reviewed. Special attention is to be paid to previous special evaluation reports.
  - Contact with the previous licensing consultant should be made if the previous license was for child day care or adult foster care.
  - The signed BCAL-3889 contains a release of information. Information about a previous license is to be released to child-placing agencies where the family has made application.
  - No additional signed release of information is required.
  - If the home was closed through disciplinary licensing action of any kind, i.e. denial of issuance, refusal to renew the license, revocation, administrative closure or “in lieu of adverse action”, the agency must determine how the family will now comply with rules.
  - The agency is to ask the applicant about the events that occurred that led to the disciplinary licensing action.
  - The family is to be evaluated for current compliance with the rules or current intent to comply.
  - The agency may not automatically deny issuance of a license based solely on a past disciplinary licensing action. Act 116, 722.125, Sec. 15 (3) does, however, indicate “A person...who has a license or certificate of registration revoked, application denied, or renewal refused, may be refused a license...or be prohibited from being connected, directly or indirectly, with a license...for a period of not less than 2 years after the revocation, denial or refusal to renew.”
  - If the disciplinary action was taken against any type of license less than 2 years ago, it is unlikely that a new license will be issued in accordance with this section of Act 116.
  - Any recommendation for licensure when the applicant has had a previous license taken through any type of disciplinary action must be reviewed by the division director of DCWL before the license may be reopened.
  - If the applicant/adult member of the household has previously had, or currently has a foster home license, an adult foster home license, or a day care license in Michigan, the license number will be written on the form.
  - If there was any form of disciplinary licensing action on a previous license, that information will be written into the box at the bottom of Section III.



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- If the file from the previous certifying agency is not available, the agency is still to ask the family what their previous licensed experience was like and whether there were any problems. Again, the focus of the investigation is current compliance with foster family home rules.

### Current Child Care and Adult Foster Care License

If there is a current child care license, the child care consultant should be contacted. The license current history may also be reviewed at [www.michigan.gov/dhslicensing](http://www.michigan.gov/dhslicensing) via the Online Lookups, under Child Care Centers and Homes. Child care capacity must also be considered with regards to compliance with FH R 400.9401.

If a current adult foster family home license exists at the same address, a concurrent license may only be issued to an Adult Foster Care Family Home (AF license type) or Adult Foster Care Small Group Home (AS type) and only for a related child. If the home is licensed as any other type of AFC home, that license must be closed before a children's foster care license can be opened.

### Section IV

This section will be completed indicating the fingerprint/ICHAT system was checked for licensees/adult household members to determine if there are any criminal convictions that have been reported to the Michigan State Police (MSP).

If there is no record of criminal convictions, the box in Section IV will say "NO CONVICTION as of XX/XX/XXXX". If there is a record, the fingerprint/conviction analyst will initial the box and attach a printout from the ICHAT system to the CWL-1326CW.

### Unable to Complete an ICHAT check:

Occasionally it is not possible to obtain a valid ICHAT check. The name of a person other than that of the individual identified on the CWL-1326CW will appear on the record as a user of a social security number matching the one on the CWL-1326CW. The name of this person will appear on the ICHAT printout. This information may be shared with the applicant/licensee.

A cover memorandum will be attached to the CWL-1326CW along with the printout with the name of the individual using the social security number. The memo will state that DCWL is unable to complete the ICHAT check due to conflicting social security numbers.

If the discrepancy can be clarified by having the agency forward a copy of the person's social security card to the analyst, the memo from DCWL will indicate that this is what is to be done.

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If a copy of the social security card will not suffice, the agency is to obtain either a clearance from the local law enforcement agency or have the applicant go directly to the local law enforcement or sheriff's office to correct the discrepancy. The applicant should clearly state that they are attempting to clarify some incorrect information that was returned on a state criminal history check that was run for the purpose of foster care licensure. Some form of written clarification should be requested of the local law enforcement office and then provided to the agency by the applicant. This documentation is then to be evaluated by the certifying agency.

If the agency is recommending for a license be issued to the family, the cover memorandum indicating that DCWL was unable to run the clearance. The documentation obtained locally must be attached to the enrolled BCAL-3706 when it is sent to the Division of Child Welfare Licensing to open the home.

For applicants/licensees who have been fingerprinted, Section IV will indicate that the fingerprint results are attached. The fingerprint results that DCWL received via e-mail will be printed and attached to each corresponding CWL-1326CW, even if no conviction information was found. The agency is to assess all information included in the attachments provided. (See section on Evaluating Fingerprint Results.)

When all three types of record checks have been completed, for all adult members of the household, and the fingerprint results are received, for all applicants, the application/clearance information will be enrolled in BITS. The original documents will be returned to the child placing agency.

### **No documents are retained by the Division of Child Welfare Licensing.**

The BITS database will generate a BCAL-3706 (Children's Foster Home Licensing Transaction Record) showing the enrollment status of the application and the assigned license number.

### **This does not mean that the family is licensed.**

The BCAL-3706 is a computer generated document. The documents are printed on a weekly basis on Monday nights, unless it is a State observed holiday. The enrolled BCAL-3706 will be mailed to the agency separate from the completed clearances (CWL-1326CW) and the associated application (BCAL-3889).

The agency certification worker will use this BCAL-3706 form when the home study process has been completed and the agency is ready to make a licensing recommendation.

### **Evaluating Fingerprint Results**

- CPAs are to apply the Good Moral Character (GMC) process to conviction information received from both the MSP and the FBI clearances.
- If the conviction is for a “specified crime” as defined in R400.1151 and R400.1152, the CPA must prepare an Administrative Review Team (ART) summary and recommendation for DCWL, if the CPA continues to recommend licensure or renewal.
- Michigan fingerprint results come in the format from ICHAT – with separate “arrest”, “charge” and “judicial” – i.e. conviction – sections. The FBI clearance is in a format that shows, at a minimum, the arrest and charge information, along with the city and state of the law enforcement agency making the arrest. If the person has multiple arrests on the FBI database, the earliest arrest will be entitled “Cycle 001”; the next oldest will be entitled “Cycle 002”; etc.
- Frequently, clearances will come to the CPA showing charges even if the MSP/FBI does not have conviction data available to provide.
- In the case of a non-specified arrest, charge or conviction, the CPA must interview the applicant/licensee about the arrest, charge or conviction, and describe the information gathered in the initial or renewal evaluation.
- Information must include:
  - How long ago did it happen?
  - What happened?
  - What do they tell you happened?
  - What does the police report state happened?
  - Does the person accept responsibility for their actions?
  - What have they learned?
  - What would they do differently in the future?
- In the case of specified crimes – i.e. GMC offenses, the agency must research the outcome of the charge beyond the statement of the applicant/licensee and prepare either an ART summary recommending licensure or denial of issuance/refusal to renew/revocation disciplinary action.
- If there is Michigan arrest information on an FBI clearance that does not match information on the Michigan clearance, you may consider the Michigan information to be more accurate. For example, if the FBI shows an arrest and charge in Saginaw, MI and the Michigan clearance shows nothing, you may assume that the person either was not convicted or has had it set aside – i.e. expunged. If, however, the arrested person was a licensed foster parent or a member of a licensed household at the time of arrest, the certification worker should still discuss the arrest with the licensee and family, as it remains a violation of R 400.9502(d) to not report an arrest.

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- If the applicant/licensee withheld information about a specified crime during the application process and on the 1326CW, the CPA is to obtain an explanation from the applicant/licensee and include it in the evaluation and/or ART summary.
- Do not accept an "It's not me" defense on a fingerprint result. If a person disputes the fingerprint results, copy the back of the CWL-1326CW form and give it to the person highlighting the process for objecting to the results.
- Absent the applicant/licensee acquiring written explanation and resolution of the error from the arresting law enforcement agency or the involved court, DCWL will consider any fingerprint match to be accurate and will take actions accordingly.

**NOTE:** Genetically-related people's fingerprints are no more similar to one another than they are to any unrelated person's fingerprints.

The purpose of the criminal conviction history information is to assist the agency in making a decision regarding a licensing recommendation. **The agency cannot complete their assessment without reviewing the results of the CWL-1326CW first.**

Suggestions to assist in assessment of criminal history conviction information:

1. **When giving the applicant the blank License Clearance form to complete, tell them that they are to list all criminal convictions, both misdemeanor and felony, no matter when they occurred.** Common excuses given by a person who does not list a conviction, when he/she has one is, "I thought they only wanted felonies" or "it happened so long ago."

It is always significant that a person says they have no conviction when they do. Conversely, a person who completes this section honestly is already assisting him/herself in rebutting the presumption that he/she is not honest, by being so.

Remember that this is the applicant's only opportunity to be honest about their background before the criminal conviction history printout is acquired. Being honest only after he/she is aware that the agency knows about the conviction is certainly not being completely honest and should be covered in the assessment.

2. **Ask the applicant to write his/her own detailed description of the incident.** As a general rule, the interviewer should not write the description of the crime for the applicant. If, for some reason, the interviewer must write the description, it should be read to and signed by

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the applicant to assure accuracy. Ask whether there was a relationship between them and the "victim". Ask why he/she did what he/she did, as they tell the story. This will establish the "facts" of the incident as the applicant sees them and without bias. It also creates a written record for future consideration of the matter.

- 3. Read the description while the applicant is present and ask for clarification, if the description is not detailed.** One of the most common problems in conducting this process is the lack of factual information on which an assessment of the criminal act itself can be based. Do not accept the simple claim that the applicant does not recall anything about the incident without questioning it.

A person's willingness to speak freely and honestly, in detail, about their criminal history impacts greatly on whether there is evidence of rehabilitation. "Rehabilitation" involves not simply the act of saying one will never do it again; it is also the act of accepting responsibility for what one has already done wrong.

- 4. Consider whether a conviction was the result of a trial or a plea bargain.** The printout often specifies either "Found Guilty" or "Pled Guilty". A guilty verdict after a trial means that an independent fact-finder, either a judge or jury, concluded that the facts presented at trial fit the definition of the crime of which the person was convicted. It would rarely be appropriate to "look behind" this type of conviction to find a different crime was committed. Conversely, a plea agreement is a frequent indication that the actual act was more serious than the conviction indicates. If the conviction was in Michigan, the ICHAT printout shows what the arresting offense was as well as the offense the person was convicted of.
- 5. Acquire copies of police reports.** If the applicant states that there are no police records, check by calling the police department that made the arrest and asking the Records Dept. how long they retain police reports. After acquisition of the report, compare the police description to the applicant's written version. Although the police officer's report may contain some inaccurate information, it is generally accurate and major discrepancies should be discussed with the applicant.

Remember: That police report led to a conviction; therefore, it is usually a good source of objective information.

- 6. In assessing the length of time since offense, the relevant time period is not just the length of time since the incident date; it is also the length of time since the sentence was completed.**

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For example, the maximum term of an armed robbery can be “any term of years” and will be set by the sentencing judge. It is frequently 15 or more years. Therefore, you might have an applicant whose criminal offense was more than 15 years prior, yet the individual has only been off parole supervision for a very short time period. In such a case, the amount of time that has passed since the incident itself is not considered strong evidence of rehabilitation.

**If the maximum sentence time shown on the printout has not passed, acquire written proof of the applicant’s claim to have discharged from probation or parole.**

**7. When analyzing the facts described by the person, ask yourself and consider:**

- a. Has s/he described a crime at all?** If a person’s description of an incident does not constitute a crime, it is very likely false or the person is continuing to not accept responsibility for the crime. Although it is true that innocent people are sometimes convicted of acts they did not do, it would not be considered a likelihood.

Even less likely would be a person who pled guilty to an act when they were innocent. This would be a factor to consider in assessing whether the person has been rehabilitated and is currently open and honest.

- b. Is s/he accepting responsibility for the criminal act or is s/he blaming others?** It is fine to say a bad peer group led one astray; however, evidence of rehabilitation requires that they accept they had a choice to be in the company of criminals and to participate in criminal acts with them.

**Remember:** Merely being present while someone else commits a crime is not a criminal act. If the person claims they were only an observer, it is probably false.

When there are multiple convictions and the defense is always that someone else was the primary person doing wrong, it is strong evidence that the person does not accept responsibility for their actions.

- c. Does the description explain every conviction in an incident where s/he was convicted of multiple offenses?** Be sure to assess all the crimes of which s/he was convicted, not simply the good moral character convictions. Also, if there are multiple convictions of the

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same charge, there should be separate crimes described for each charge.

### **R 400.9201 Foster home applicant/licensee qualifications. (FH Rule)**

*A foster home applicant or licensee shall meet all of the following qualifications:*

- (b) Be of good moral character.*
- (j) Be of responsible character and suitable and able to meet the needs of children and provide for their care, supervision, and protection.*

The criminal involvement of any of the adult members of the household is to be assessed for a determination of compliance with Foster Home Rules 400.9201(b) and (j). The information that shows up on the printout that relates to criminal convictions must be evaluated to determine good moral character, responsible character and suitability.

### **Specified Crimes**

Pursuant to MCL 338.41, "The phrase 'good moral character' or words of similar import, when used as a requirement for an occupational or professional license . . . shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest and open manner." Administrative Rules 400.1151 – 400.1153 were promulgated to define what types of criminal convictions are to be assessed for good moral character for licensure under PA 116 of 1973. Rule 400.1152 lists criminal offenses that presume an applicant's lack of good moral character. The presumption exists, regardless of whether the applicant's conviction was at the misdemeanor or felony level, unless the rule specifies otherwise.

Michigan's Good Moral Character Rule identifies criminal offenses that presume a lack of good moral character. The specified crimes are:

- Crimes involving substantial misrepresentation of any material fact, such as bribery, fraud (i.e. retail fraud), filing of false claims, etc.
- Homicide
- Murder
- Manslaughter
- Mayhem
- Negligent homicide
- Assault; battery (felony or misdemeanor)
- Crimes involving a violent act against a person or a sexual offense, such as criminal sexual conduct, child abuse/neglect, kidnapping, prostitution, cruelty toward, or torture of, any person; robbery; armed robbery
- Burglary; receiving and concealing stolen property
- Extortion; larceny by trick; larceny by conversion, embezzlement
- Arson

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- Controlled substance, narcotics or alcohol offenses (felony)
- Poisoning

### Definitions

Below are working definitions for some of the offenses listed in Good Moral Character R 400.1152. This is not a complete list of the offenses found in the Rule, as some offenses are adequately defined by their titles themselves and are, also, not likely to be involved factually with other convictions that are not listed – Examples: Poisoning, Criminal Sexual Conduct, Murder, Torture, etc. Some of the offenses listed in this rule are concepts of common law and their Michigan statutory counterparts have different names. Where possible, the common statutory offense titles are included:

**ASSAULT** –an act done with the intent to cause imminent fear of immediate harm. This does not require a “touching” to be a completed offense. [Common Law] Statutory offense titles – Simple Assault; Assault and Battery; Aggravated Assault; Felonious Assault; Assault With Intent to [Do Great Bodily Harm; Murder; Rob; Maim]; Domestic Violence

**BATTERY** – an intentional, non-consensual touching of another person [Common Law] Statutory offense titles – Same as “Assault”

**BRIBERY** – giving or offering a gift or gratuity to a person who is operating in some official capacity with the intent to bias or influence a decision of that person in his official capacity. (Including accepting a bribe) [Statutory]

**BURGLARY** – a breaking and entering of a building with the intent to commit a felony or any larceny therein [Common Law] Statutory offense title – Breaking and Entering; Home Invasion. This does not include Larceny in a Building.

**EMBEZZLEMENT** – a person, acting as an employee or agent, fraudulently disposes of or converts to his own use, property belonging to his employer/principal [Statutory]

**EXTORTION** – “Blackmail” – maliciously threatening to accuse of a crime or to injure the person threatened or his parents, spouse or children, with the intent to extort a pecuniary advantage [Statutory]

**FRAUD** – a false statement or act, done with the intent to deceive the person to whom it was directed, resulting in gain for the defrauder [Common Law] Statutory offense titles – False Pretenses; Uttering and Publishing; Insufficient Funds Checks; Welfare Fraud; Mail Fraud; Fraudulently Obtaining Telecommunication Service - **THIS DOES INCLUDE RETAIL FRAUD.**



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**HOMICIDE** – causing the death of another [Common Law]  
Statutory offense titles – Murder – any degree; Manslaughter – any degree;  
Willful Killing; Negligent Homicide (This offense requires that the homicide  
resulted from the person's operation of a vehicle.)

**KIDNAPPING** – confining or forcibly carrying away a person against their will  
[Statutory] NOTE: This includes "Parental Kidnapping" – a felony - detaining a  
child from the other parent, for more than 24 hours beyond court order [Statutory]

**LARCENY BY CONVERSION** – "rightfully taken, wrongfully held" [Common Law]  
Example: Retaining a rented car beyond the time of a lease without the owner's  
agreement

**LARCENY BY TRICK** – the act of taking property or a portion thereof, by trick or  
fraud [Common Law] Example: price tag switching. NOTE: Larcenies included in  
the rule have an element of fraud in their definition and are not simple acts of  
theft.

**MAYHEM** – Intentional maiming or disfiguring [Statutory]

**ROBBERY** – a larceny from a person, involving force or coercion in the taking  
[Common Law] Statutory offense titles – Armed Robbery; Unarmed Robbery;  
Carjacking; Bank Robbery

**STOLEN PROPERTY (Receiving/ Concealing)** – buying, receiving, possessing,  
concealing or aiding in concealing property, which is known to be stolen  
[Statutory] (Includes "Operating a Chop Shop")

### **Non-Specified Crimes**

Non-specified crimes are convictions for any crime not noted in the Good Moral  
Character rules.

If the person has any criminal convictions for non-specified crimes or answered  
**YES** to the question on the CWL-1326CW that reads "Have you ever been  
convicted of a crime, felony or misdemeanor?", an assessment of the incident  
must be made in the context of responsible character and suitability and how the  
incident affects the person's ability to provide for the care and safety of children  
who are or may be placed into that home.

When the certifying agency receives information regarding convictions, the  
applicant/licensee is to be notified. A copy of the print out **MAY NOT** be given to  
the applicant/licensee.

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The agency should then gather all relevant data. Police reports should be obtained when a conviction is found or disclosed by the person on the CWL-1326CW.

A conference is to be arranged to discuss the record and provide the applicant with an opportunity to present any facts that indicate the individual is a person of responsible character and care good moral character.

The certifying agency is to take the following factors into account when evaluating the existence of any criminal convictions:

1. Circumstances surrounding the offense or event.
2. Length of time since the event, offense or sentence for offense occurred.
3. The severity of the offense or event.
4. Evidence of the offender's rehabilitation. Examples – education, stable employment, positive references, etc. Generally, a determination of rehabilitation requires 5 years to have passed since the conviction or the end of the sentence.
5. The relationship of the offense or event to children's foster care.

### Procedure for Recommending Issuance of a License with Criminal Convictions

After the evaluation is complete, if the certifying agency makes the decision to pursue licensure for the family, it must be handled as follows:

Recommend licensure - conviction was for a **non-specified crime**. If the only conviction(s) relate(s) to non-specified crimes, the agency must include their investigation/assessment of suitability and responsible character as outlined above along with any related statements and evidence in the foster home study. The agency may then recommend that the Division of Child Welfare Licensing issue a license.

Recommend licensure – conviction was for a **specified crime**. The agency must complete the investigation/assessment as outlined above, but the recommendation for licensure must be pre-approved by the Administrative Review Team before a license will be issued.

### **ADMINISTRATIVE REVIEW TEAM (ART)**

When the agency completes the entire licensing evaluation, including the assessment of the conviction(s), and the decision is to recommend licensure despite a conviction(s) for a specified crime as indicated in the Good Moral Character rules, the agency is to complete a separate report referred to as the ART Summary. This is to be submitted with the initial licensing packet.

Michigan's Good Moral Character Rule identifies criminal offenses that presume a lack of good moral character.

The Administrative Review Team (ART) is the process by which a licensee or applicant may rebut the Good Moral Character Rule's presumption by demonstrating detailed evidence of rehabilitation. The process begins with the agency preparing an Administrative Review Team Summary using the approved format.

The ART provides the criminal history including the date and name of committed offense(s). The format calls for a description of the circumstances of the offense; evidence of rehabilitation; and the relationship of the offense to providing licensed care.

If, in addition to a conviction for a specified crime, there are additional convictions for other crimes that are not specified in the Good Moral Character rule, ALL convictions must be addressed in the ART Summary. Decisions made by the Administrative Review Team are not subject to appeal. Subsequent disciplinary licensing actions are subject to appeal per MCL 722.121

When an ART Summary has been reviewed and approved by the Administrative Review Team an approval letter will be mailed to the child placing agency. If issuance of a new license was pending, the new license will be issued. The approval letter should be retained in the foster home file at the certifying agency.

Once an ART Summary is approved it is valid for the duration of the licensee's involvement as a foster parent, unless there is a new conviction or substantive new information regarding the conviction is received.

The ART Summary is to be sent to:

Division of Child Welfare Licensing  
235 S. Grand Ave., Suite 407  
P.O. Box 30650  
Lansing, MI 48909-0850



### **The Adoption and Safe Families Act of 1997**

On November 19, 1997, the President signed the Adoption and Safe Families Act (ASFA) of 1997 into law. Among other changes, this act sets criteria for considering the licensure of individuals who have been convicted of certain criminal offenses. As part of the Social Security Act, these criteria are geared to disallow payment of federal foster care maintenance funds to persons with certain criminal histories. Therefore, the standards do not directly disallow the state regulatory agency from licensing such homes, but rather, disallow the payment of federal foster care funds to them.

Rule 400.1152(4), a portion of Michigan's Good Moral Character Rule, requires a review by the "department's administrative licensing officials" to assess the advisability of issuing a license for foster care (child or adult) or child care, despite certain criminal convictions. In response to this requirement, DCWL developed the Administrative Review Team (ART) process. Although there are specified crimes for which the process is required, there are no crimes for which denial of licensure is automatic – i.e. non-discretionary.

The standards set forth in the Adoption and Safe Families Act set clear guidelines, which DCWL utilizes, for consideration of administrative reviews.

The specified crimes in ASFA fall into two categories; those which permanently preclude the payment of federal funds and those which preclude federal funding for a five year period after the date the crime was committed.

All the offenses listed below refer to **felony** convictions.

Permanent criteria:

- Child abuse and neglect
- Spousal abuse
- Crimes against children, such as child pornography
- A crime involving violence
- Including, rape, sexual assault, homicide
- Not including other physical assault or battery

5-Year Criteria:

- Assault and battery
- Drug-related

It is highly unlikely that an individual will be approved for licensing if there is a conviction for an ASFA identified offense.

### **Environmental Health Inspections**

#### **R 400.12310 Initial evaluation (CPA Rule)**

- (3) *The report shall be an assessment of all of the following:*
- (f) *Safety and maintenance of the applicant's house and, property including but not limited to: sufficient beds, and sleeping space, pets, guns and other weapons, and water hazards.*
  - (g) *Assessment of the neighborhood, schools, community and available resources.*

#### **R 400.9305 Bathrooms; water supply; sewage disposal (FH Rule)**

- (4) *A foster parent shall ensure that the foster home water supply is from a source that is approved for a private home by the health authority.*
- (5) *A foster parent shall ensure that all sewage is disposed of through a public system or, in the absence of a public system, in a manner that is approved for a private home by the health authority.*

**PURPOSE:** To assure that a basic level of general sanitation and safety exists in foster homes through environmental health and sanitation inspections.

**GENERAL POLICY:** All proposed foster homes that do not have public water and/or sewer systems are to be inspected by the local health inspection agency to determine compliance with environmental health requirements before the issuance of an original license.

The Division of Child Welfare Licensing will pay for inspections of private water supplies and sewage disposal systems in foster homes. If the health authority requires that the system be pumped prior to inspection, DCWL **will not** pay for the pumping fee.

**Inspection Request:** When the Agency is requesting an inspection, the certification worker completes Items 1–21 on the Environmental Health Inspection Request form (BCAL-1787A) and forwards the form to the local health authority. NOTE: Item 9 refers to the name and address of the certifying agency requesting the environmental health inspection.

**Inspection Reports:** The local health authority completes the BCAL-1788, Environmental Health Inspection Report (Part-A), Water Supply and Sewage Disposal, as applicable, and returns a copy to the Agency along with a copy of the BCAL-1787A with the amount of inspection fee indicated in item 22.

**Payment:** The certification worker is to sign and date the BCAL-1787A indicating the date the completed BCAL-1788 was received from the health department and the date signed and send a copy of the form to Lansing. The Department will

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approve payment for the environmental health inspection when a copy of the signed BCAL-1787A, including the fee amount, is received in Lansing.

### Inspection Ratings:

- **"A" Rating:** Substantial compliance.
- **"B" Rating:** When a "B" rating is issued, the agency certification worker is to ensure that an agreement is developed to correct the rule violation(s) by the next annual inspection/report as specified on the report. A re-inspection by the health department is required within one year. It is the responsibility of the agency certification worker to schedule the re-inspection by submitting another BCAL-1787A to the health department and ensuring that it is completed. \*\*
- **"C" Rating:** Immediate and priority attention must be given to foster homes that receive an environmental health "C" rating. The agency certification worker is to ensure that an agreement is developed to correct the rule violation(s) within the time period specified on the report. A re-inspection is required at the end of the specified time period. It is the responsibility of the agency certification worker to schedule the re-inspection by submitting another BCAL-1787A to the health department and ensuring that it is completed. \*\*
  - "C" Ratings will require variance approval.

\*\* If the re-inspection produces a "D" rating as a result of the problem(s) not being corrected, it could result in placement disruption(s) for no reason other than an insufficient health inspection rating. This possibility should be taken into account when the agency is making a decision regarding recommending a new license be issued to a home with a "B" or "C" rating. It may be best to wait until the corrections have been made to recommend licensure.

- **"D" Rating:** Disapproved. A license is not to be recommended unless there is a variance. A variance will not be approved in most cases as the presence of a "D" rating means the health authority has determined that there is an unsafe condition.

"C" and "D" ratings may be appropriate with a variance. The agency is to assess whether the variance "from the particular licensing rule or statutes would not jeopardize the health or safety of a child residing in the foster family home or foster family group home..." (Act 116 722.118(b)). The variance request must include documentation that the "C" or "D" rating does not jeopardize health, for

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example, the water tested as acceptable but the septic system is undersized and the family has agreed to have it regularly pumped.

### Health Inspection Frequency

Any foster home applicant that has a private water or sewer system must have an initial health inspection. Inspections resulting from the recent purchase of a home or in an association with regulations governing mobile home parks may suffice. The referenced inspection is to be included in the foster home licensing file and uploaded into MiSACWIS for local DHHS offices or contract agencies.

A single inspection at the time of original application is sufficient, unless a re-inspection is warranted as indicated below. Initial health inspections are to be current (completed within one year of initial licensure).

Re-inspections are required for homes that receive a "B" or "C" rating. A "B" rating requires a re-inspection in a year. For a "C" rating, the re-inspection must be done before the date indicated by the health department on the BCAL-1788.

A re-inspection should also be requested if the agency certification or foster care worker notes a potential problem during a routine home evaluation, such as standing water in the back yard or evidence there are problems with flushing the toilets. The agency certification worker must request re-inspections by completing Items 1-21 on the BCAL-1787A and forwarding it to the local health authority. A new request must be made for each re-inspection.

The Division of Child Welfare Licensing will approve payment for any subsequent health inspections via the procedures outlined earlier in this section.

## **Application and Licensing**

An agency is required to have policy covering the handling of initial evaluations.

### **R 400.9201 Foster home applicant/licensee qualifications (FH Rule)**

*A foster home applicant or licensee shall meet all of the following qualifications:*

- (a) Be 18 years of age or older.*
- (b) Be of good moral character.*
- (c) Express a willingness to provide care for children who are served by the agency.*
- (d) Demonstrate an understanding of the care which must be provided to the children served by the agency.*
- (e) Express a willingness to learn how to provide care to children served by the agency.*
- (f) Have adequate time to provide care and supervision for the children.*



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- (g) Have a defined legal source of income, and be capable of managing that income, to meet the needs of the foster family.*
- (h) Be of such physical, mental, and emotional health to assure appropriate care of children.*
- (i) Express willingness, and demonstrate the ability, to work with a foster child's family or future family.*
- (j) Be of responsible character and be suitable and able to meet the needs of children and provide for their care, supervision, and protection.*
- (k) Demonstrate a willingness and ability to comply with the licensing rules for foster homes.*
- (l) Be residing in the United States legally.*

**R 400.9202 Member of household qualifications (FH Rule)**

- (1) To assure the safety and welfare of a foster child, a member of the household shall meet all of the following qualifications:*
  - (a) Be of good moral character and suitable to assure the welfare of children.*
  - (b) Be in a state of physical, mental, and emotional health that will not impair the care of a foster child.*
  - (c) Be willing to accept a foster child into the foster home as a member of the household.*
  - (d) Be residing in the United States legally.*
- (2) Any adult member of the household who provides care for foster children shall also meet the qualifications specified in R 400.9201.*

Please refer to Pages 12-17 of the Technical Assistance Manual for the rule interpretation of R 400.9201 (FH Rule).

**R 400.9206 Foster home evaluation (FH Rule)**

*A foster home applicant/licensee shall do all of the following:*

- (a) Allow the agency access to the foster home for licensing and foster child supervision purposes.*
- (b) Truthfully assist the agency in determining all of the following:*
  - (i) Marital and family status and history, including current and past level of family functioning and relationships and any incidents of domestic violence or abuse, either as a perpetrator or victim.*
  - (ii) The circumstances surrounding any criminal convictions or arrests for each member of the household, including minor children.*
  - (iii) Educational history and any special skills and interests.*
  - (iv) Employment history, current financial status, including property and income, money management skills and outstanding financial obligations.*
  - (v) Physical, mental, and emotional health of each member of the household.*

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- (vi) Any history of substance abuse, including alcohol, drugs, or controlled substances, by each member of the household and a description of any treatment received.*
  - (vii) Current substance abuse, including alcohol, drugs, or controlled substances, by each member of the household and a description of any treatment currently being received.*
  - (viii) Parenting skills and attitudes toward children.*
  - (ix) Methods of discipline of children.*
  - (x) Adjustment and special needs of the applicant's own children, including children not living in the home.*
  - (xi) Strengths and weaknesses of each member of the household.*
  - (xii) Experiences with own parents and any history of out-of-home care.*
  - (xiii) Family's perception of the purpose of foster care.*
  - (xiv) Reason for applying to be a foster family.*
  - (xv) Previous licenses or experience in providing child foster care, child day care, or adult foster care.*
  - (xvi) Willingness of each member of the household to accept a foster child with the child's individual characteristics, needs, and background.*
  - (xvii) Willingness to parent cross-racially or cross-culturally and to create an atmosphere that fosters the racial identity and culture of a foster child.*
  - (xviii) Willingness and ability to give a foster child guidance, love, and affection and accept the child as a member of the household.*
  - (xix) Willingness and ability to work with a foster child's birth family and to understand the foster child's attachment to the birth family.*
  - (xx) Understanding of and willingness to participate in concurrent planning.*
  - (xxi) Existence of a social support system including alternate care providers.*
  - (xxii) Spirituality or religious beliefs.*
  - (xxiii) Safety and maintenance of the applicant's house and property, including but not limited to: sufficient beds and sleeping space, pets, guns and other weapons, and water hazards.*
  - (xxiv) Assessment of the neighborhood, schools, community, and available resources.*
  - (xxv) The age, number, gender, race, ethnic background, and special characteristics of children preferred by the applicants.*
- (c) Provide the agency with all of the following:*
- (i) Three current references from persons not related to the applicants.*
  - (ii) A medical history that includes all treatments and all prescriptions used by each member of the household.*
  - (iii) A medical statement that includes all treatments and all prescriptions and medications being used by each member of the household that indicates that the member has no known condition which would affect the care of a foster child. The statement shall be signed by a physician,*

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*physician's assistant, or nurse practitioner within the 12-month period before licensure.*

*(iv) A statement regarding any past and/or current mental health treatment or counseling by any member of the household.*

### **Initial Evaluation Process**

#### **R 400.12310 Initial Evaluation (CPA Rule)**

- (1) An agency social service worker shall complete a written initial foster home evaluation before certifying the home for licensure.*
- (2) The report shall include the dates and places of contacts and persons interviewed or observed.*
- (3) The report shall be an assessment of all of the following:*
  - (a) Visits at the residence of the foster home applicants for observation of, and interviews with, each member of the household to determine all of the following:*
    - (i) Marital and family status and history, including current and past level of family functioning and relationships and any incidents of domestic violence.*
    - (ii) Educational history and any special skills and interests.*
    - (iii) Employment history, current financial status, including property and income, money management skills, and outstanding financial obligations.*
    - (iv) Physical, mental, and emotional health of each member of the household.*
    - (v) Any history of substance abuse, including alcohol, drugs, or controlled substances by each member of the household and a description of any treatment received.*
    - (vi) Current substance abuse, including alcohol, drugs, or controlled substances by each member of the household and a description of any treatment currently being received.*
    - (vii) Parenting skills and attitudes towards children.*
    - (viii) Methods of discipline of children.*
    - (ix) Adjustments and special needs of the applicant's own children including children not living in the home.*
    - (x) Strengths and weaknesses of each member of the household.*
    - (xi) Experiences with own parents and any history of out-of-home care.*
    - (xii) Reasons for applying to be a foster family.*
    - (xiii) Previous licenses or experiences in providing child foster care, child day care, or adult foster care.*
    - (xiv) Willingness to accept a foster child with the child's individual characteristics, needs, and background.*

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- (xv) Willingness to parent cross-racially or cross-culturally and to create an atmosphere that fosters the racial identity and culture of a foster child.*
- (xvi) Willingness and ability to work with birth families and to understand the foster child's attachment to the birth family.*
- (xvii) An understanding of and willingness to participate in concurrent planning.*
- (xviii) Willingness and ability to give a foster child guidance, love, and affection and accept the child as a member of the household.*
- (xix) Spirituality or religious beliefs.*
- (b) Previous adoption evaluations*
- (c) Previous criminal convictions and substantiated child abuse or neglect investigations or concerns brought to the agency's or department's attention for any member of the household.*
- (d) Three current references from persons not related to the applicants. The agency shall evaluate any negative references.*
- (e) Any medical statement for each member of the household that indicates that the member has no known condition which would affect the care of a foster child. The statement shall be signed by a physician, physician's assistant or nurse practitioner within the 12-month period before the initial evaluation.*
- (f) Safety and maintenance of the applicant's house and property, including but not limited to: sufficient beds and sleeping space, pets, guns, and other weapons, and water hazards.*
- (g) Assessment of the neighborhood, schools, community, and available resources.*
- (h) The age, number, gender, race, ethnic background, and the special characteristics of children preferred by the applicants.*
- (i) Training needs of the family.*
- (4) An agency shall document placement specifications consistent with the information contained in the evaluation. The placement specifications shall include the following:*
  - (a) Age*
  - (b) Gender*
  - (c) Race*
  - (d) Number of children preferred by the family*
  - (e) Characteristics of children best served by the family*
  - (f) Children who may not be placed in the home. The child's racial, ethnic, and cultural identity, heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interest of the child.*
- (5) An agency shall inform the applicant of the department's policies and procedures regarding concurrent planning.*

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- (6) *An agency shall inform the applicant that a copy of the initial evaluation is available upon request.*

**R 400.9206 Foster home evaluation (FH Rule)**

*A foster home applicant/licensee shall do all of the following:*

- (a) *Allow the agency access to the foster home for licensing and fosterchild supervision purposes.*
- (b) *Truthfully assist the agency in determining all of the following:*
- (i) *Marital and family status and history, including current and past level of family functioning and relationships and any incidents of domestic violence or abuse, either as a perpetrator or victim.*
  - (ii) *The circumstances surrounding any criminal convictions or arrests for each member of the household, including minor children.*
  - (iii) *Educational history and any special skills and interests.*
  - (iv) *Employment history, current financial status, including property and income, money management skills and outstanding financial obligations.*
  - (v) *Physical, mental, and emotional health of each member of the household.*
  - (vi) *Any history of substance abuse including alcohol, drugs or controlled substances by each member of the household and a description of any treatment received.*
  - (vii) *Current substance use, including alcohol, drugs, or controlled substances, by each member of the household and a description of any treatment currently being received.*
  - (viii) *Parenting skills and attitudes toward children.*
  - (ix) *Methods of discipline of children.*
  - (x) *Adjustment and special needs of the applicant's own children, including children not living in the home.*
  - (xi) *Strengths and weaknesses of each member of the household.*
  - (xii) *Experiences with own parents and any history of out-of-home care.*
  - (xiii) *Family's perception of the purpose of foster care.*
  - (xiv) *Reason for applying to be a foster family.*
  - (xv) *Previous licenses or experience in providing child foster care, child care, or adult foster care.*
  - (xvi) *Willingness of each member of the household to accept a fosterchild with the child's individual characteristics, needs, and background.*
  - (xvii) *Willingness to parent cross-racially or cross-culturally and to create an atmosphere that fosters the racial identity and culture of a fosterchild.*
  - (xviii) *Willingness and ability to give a foster child guidance, love, affection and accept the child as a member of the household.*
  - (xix) *Willingness and ability to work with a foster child's birth family and to understand the foster child's attachment to the birth family.*
  - (xx) *Understanding of and willingness to participate in concurrent planning.*

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- (xxi) Existence of a social support system including alternate care providers.*
  - (xxii) Spirituality or religious beliefs.*
  - (xxiii) Safety and maintenance of the applicant's house and property, including but not limited to: sufficient beds and sleeping space, pets, guns and other weapons, and water hazards.*
  - (xxiv) Assessment of the neighborhood, schools, community, and available resources.*
  - (xxv) The age, number, gender, race, ethnic background, and special characteristics of children preferred by the applicants.*
- (c) Provide the agency with all of the following:*
- (i) Three current references from persons not related to the applicants.*
  - (ii) A medical history that includes all treatments and all prescriptions used by each member of the household.*
  - (iii) A medical statement that includes all treatments and all prescriptions and medications being used by each member of the household that indicates that the member has no known condition which would affect the care of a foster child. The statement shall be signed by a physician, physician's assistant, nurse practitioner within the 12-month period before licensure.*
  - (iv) A statement regarding any past and/or current mental health treatment or counseling by any member of the household.*

**Rule Interpretation:**

Upon receipt of the signed application, an agency is to complete an evaluation. The agency is to visit the home and interview all applicants and household members face to face. Those members of the household that are determined too young or unable to be interviewed must be observed.

The agency is to obtain all of the information requested in R 400.12310 (CPA Rule) and the foster home applicants are to allow access into their home and allow private interviews with all household members to truthfully assist the agency in determining all of the required areas in R 400.9206 (FH Rule).

### **Personal References**

At least three unrelated references are required for each applicant. If the references know both applicants, this can be used as a reference for both applicants. Each applicant is to provide the certifying agency with names and contact information for the three (3) references. "Related" is defined in MCL 722.111 (1) (s).

References may be in writing from the reference, or the agency may contact the reference directly and document the reference's response in the file. When a reference is taken by phone it should be documented on the same form used to obtain a written response and the interviewer should indicate on the form that it was taken over the telephone.

The confidentiality of information given by a reference cannot be guaranteed as the information received will be used in making licensing decisions.

The agency may use any format that includes the following points:

1. The opinion of the reference as to the applicant's ability to care for children.
2. The reference's knowledge of the applicant's character and reputation.
3. The length and nature of the relationship between the reference and the applicant.
4. The reference's recommendation regarding the issuance of a foster home license.

When three references are not received in a timely fashion the applicant is to be informed in writing and given a reasonable amount of time to provide the needed references. When incomplete or negative references are received, the certifying agency is to contact the reference, preferably in person, to determine the reasons for the reference's response. Any negative information must be assessed prior to recommending the issuance of an original license. References that provide negative information must be discussed in the Initial Home Evaluation and the negative information must be resolved.

The information obtained from a reference may be the basis for expanding the licensing investigation to obtain facts from other sources related to issues raised by a reference. It is expected that the certifying agency will contact other pertinent persons who can help the agency assess compliance with rules when the agency believes there is a need to do so. When the agency has 3 references from unrelated individuals, it is acceptable to try to resolve identified issues by talking to relatives.

Information provided by references is to be used by the certifying agency in evaluating the applicant's compliance with applicable rules.

### **Medical Statements**

After receipt of the application, the certifying agency is to provide the applicant with a medical statement form for each member of the household. When members of the household change a medical statement is to be completed on any new members. When foster children are adopted, they become members of the household and a medical statement is needed. The adoption medical form will suffice if it meets the requirements of the rule. It is the certification worker's responsibility to make sure all completed statements get returned.

If a physician indicates that s/he prefers not to respond or if a negative response is received, the certifying agency must follow-up by contacting the physician to determine the reasons for the lack of response or negative response. It is the responsibility of the certifying agency to determine if information received from the physician requires additional discussion with the applicant or with collateral contacts. Negative information should be thoroughly assessed prior to recommending licensure and must be discussed in the Initial Evaluation Report.

A current medical statement for each member of the household is required prior to issuance of an original license. The medical statement must be dated within one year of original licensure of the home. An agency may also require a psychological examination or substance abuse assessment, if the conditions for requesting it are clearly stated in agency policy and applied equally to all applicants/licensees.

The rule requires a medical statement, not a complete physical examination. The physician, however, may require a recently completed physical examination before completing the medical statement. Information given by the physician on the medical statement cannot be guaranteed to be confidential in the event of an administrative hearing. Medical statements must be signed by a physician, nurse practitioner or physician's assistant. This includes care needs of any household member that require the applicant/licensee to provide care that is more intensive than routine care. Medical statements are not required for annuals or renewals, however, the agency should assess whether or not new medical statements need to be done at any time based on the physical, mental, and emotional health observed at the time of a routine inspection, a special evaluation or in the context of health status throughout the time the person has been licensed. There is no mandatory form for the medical statement. Certifying agencies may use any form as long as the following information is included on the form:

- A release of information statement:  
"I hereby authorize Dr. \_\_\_\_\_ to release from my medical records all information concerning my current health status and medical history to (specify the certifying agency requesting the information)."



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The agency may choose to ask how long the physician has been treating the person for whom they are completing the statement to assess whether further information is needed.

**Include a place for the date and the signature of the patient or the patient's parent or legal guardian.**

**Request the physician's assessment of any known medical conditions that might affect the health/care/safety of a foster child.**

Additional documentation is to be obtained by the agency to specifically assess the known medical condition and treatments being provided if information was not provided with the initial medical statement.

When determining the physical, mental, and emotional health of an applicant/licensee/household member, the following are to be considered:

- Are they receiving disability? What is the basis for the disability? What are the limitations they may have based on that disability and the physician's input? Are the limitations of the stated disability consistent with any known employment? For example, the disability is for back problems, but the person has some part time employment that would typically require lifting.
- Are they prescribed medications? What are the medications? What do they take them for? Dosage? When do they take them? How often? What are the side effects? Have they discussed side effects with their physician? Where are they kept?
- Physical, mental, and emotional effects of medication or the condition of the person: Do they impair the ability to provide foster care? If so, who will be caring for the children during those times?
- Does the diagnosis or prescription prevent transportation (operating a vehicle)? If so, who will transport children?
- Compliance with treatment plan for medical/mental health.
- Are they in counseling/therapy?
  - Documentation from the current counselor/therapist must be gathered to determine why they are in treatment. Have they ever been admitted to the hospital? How they are doing in treatment? Does the counselor/therapist have any concerns pertaining to the applicant/licensee fostering?
  - Do they need a current psychological assessment?
- Substance abuse issues: past and current
  - When did the abuse occur?
  - What substance?
  - What treatment was provided/is being provided?
  - Why did they turn to substances?
  - What have they learned from that experience?
  - How would they handle similar situations presently?

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- How do they maintain sobriety?
- Do they need a current substance abuse assessment?
- Having a prescription for medical marijuana is not a basis for denial of issuance. The reason for the prescription and all of the other factors noted above for other prescription drugs are to be considered and evaluated in the same manner.
- The medical statements for birth or adopted children or children by guardianship should identify whether the child is current on immunizations. Parents have the right to make decisions about immunizing their own children, but must have evidence that they have complied with public health policy and have **“certification by the local health department that the parent or parents received education on the risks of not receiving the vaccines being waived and the benefits of vaccination to the individual and the community as required by MCL 333.5111 and the provisions under Admin Rule R 325.176(12) of the Communicable and Related Disease administrative rules”**.
  - Michigan Department of Public Health has determined if a family does not immunize their own children, the home cannot be licensed for children less than seven years of age.

### **Foster Parent Training**

#### **R 400.12312 Foster parent training (CPA Rule)**

- (1) *An agency shall develop a foster parent training plan with the participation of foster parents.*
- (2) *The foster parent training plan shall provide for all of the following:*
  - (a) *The individual training needs of the foster parents.*
  - (b) *Not less than 12 hours of training to be completed by each person named on the license before a recommendation for licensure is made. Not more than 6 hours of orientation may be included as part of the initial 12 hours of training.*
  - (c) *Not less than 6 hours of training annually for each licensee after the time periods specified in subdivision (b) of this subrule*
- (3) *The training specified in subrule (2)(a) and (b), of this rule shall address all of the following areas:*
  - (a) *Characteristics and needs of children who may be placed into the home.*
  - (b) *Safe sleep practices for infants.*
  - (c) *Effective parenting.*
  - (d) *Behavior management, including de-escalation techniques.*
  - (e) *Importance of the foster child's family.*
  - (f) *Concurrent planning.*
  - (g) *Role of the agency.*
  - (h) *Emergency procedures, first aid, and fire safety.*
  - (i) *Preparation of the foster child for permanence and independence.*

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- (j) *The role of the court and lawyer guardian ad litem in permanency planning.*
- (4) *At least one adult member of the household shall have training in and maintain a current certification in first aid from the American Heart Association of the American Red Cross or other institution approved by the department.*
- (5) *An agency shall document all training received by each foster parent.*

### **R 400.9416 Foster parent training (FH Rule)**

- (1) *Each licensed foster parent shall attend training as required by the agency foster parent training plan, totaling to at least 6 clock hours per year.*
- (2) *At least one adult member of the household shall have training in and maintain a current certification in first aid from the American Heart Association or the American Red Cross or other institution approved by the department.*

### Rule Interpretation:

- The agency is to have and follow their written foster parent training policy, which is required by CPA Rule 400.12303.
- The agency is to make an assessment of the training needs of each licensee during the original evaluation and at all subsequent reevaluations.
- Training content must include all rule-identified (CPA R400.12307 and CPA R400.12312) areas during the initial 12 hours of training and the 12 hours required during the next 2 years. Training is ongoing. If the applicant/licensee completes more than 12 hours of training before licensure, those training hours are not transferred over into the next training requirements.
- A foster parent shall attend training as required by the agency foster parent training plan.
- Each licensee must have 12 hours of training prior to licensure.
- Each licensee must have six hours annually beginning when the original provisional license is renewed.
- Each licensee, where there are two or more caregivers, must have an individual training plan.
- The agency must document all training received by each licensee.
- Training may be delivered in whatever method the agency determines is appropriate. Training should not be a barrier to obtaining a license or maintaining a license, however, agencies are strongly encouraged to ensure that at least some training is obtained in a manner other than online. There is significant value in observing individuals participation and understanding during onsite training.
- Agencies should ensure that their applicants have received training related to the recommended service types.
- All applicants will be trained on Reasonable and Prudent Parenting and will be trained annually once a license is issued. (Annually starts at the Original Provisional License.)

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Examples of training methodologies:

- Training delivered directly to the foster parent(s) by a certification worker.
- Training delivered by another professional.
- Classroom offerings by the agency or another child placing agency.
- Training offered in the community on relevant topics, such as CPR and First Aid.
- Review of written material, online classes or recorded material that is determined to be relevant to fostering. The agency should have a discussion when written or recorded material is used to ensure there has been some learning.
- Attendance at relevant workshops or conferences.
- Experiential training, such as attending an IEPC, working with a medical professional to meet the needs of a specific child in care, working with a therapist to learn how to manage the behavior of a specific child in care.
- Training on relevant topics, such as Diversity and Team Building, attended as a requirement of a foster parent's employment.

### Foster Home

#### **R 400.9301 Maintenance (FH Rule)**

- (1) *A foster parent shall ensure that the property, structure, premises, and furnishings of a foster home are constructed and maintained in a clean and safe condition and in good repair.*
- (2) *A foster parent shall ensure that the property, structures, premises, and furnishings are adequately constructed and maintained to meet the needs of each foster child and each member of the household.*
- (3) *A foster parent shall ensure that all animals are safe to be around members of the household and the children who may be placed in the home. The foster parent shall notify the agency within 3 business days when new pets are acquired. Animals shall be licensed and vaccinated in accordance with the laws of the municipality where the foster home is located.*
- (4) *Before using a residential pool, spa, or hot tub, the foster parent shall ensure that the water is clean, safe, and sanitary.*
- (5) *Children must be adequately supervised at all times around any water activity.*
- (6) *If there is a residential pool, spa, hot tub, pond, or other body of water on the premises, rescue equipment shall be available at all times. There shall be an alarm on any exterior door that leads directly to the pool, spa, hot tub, pond, or other body of water.*

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### Rule Interpretation:

(1) When determining if the property, structure, premises, and furnishings of a foster home are maintained in a clean and safe manner, the following should be considered:

- The level of housekeeping is objective. Look for general cleanliness and orderliness as they relate to health and safety:
- Are floors, furnishings, appliances, and walls kept clean on a regular basis?
- Are indoor “animal areas” clean and sanitized?
- Are outdoor spaces clean and uncluttered?
- Are clothing and bed linens laundered at least weekly and kept clean and fresh?
- Are the dishes washed regularly?
- Is the carpet stained, worn or dirty?
- Are any of the following present:
  - Torn screens, broken glass, bare electrical wires, outlet covers missing, loose handrails or lack of handrails on staircases
  - Construction occurring; unfinished walls, floors, ceilings
  - Holes in walls, floors, and ceilings; paint peeling
  - Missing stair treads
  - Bare mattresses on springs
  - Lack of refrigeration
  - Missing doorknobs
  - Missing screens
  - Is there clutter? Does the clutter prohibit access to doors and windows? Does the clutter present a safety risk for the age of children in their home or children that may be placed?

Examples of significant safety issues:

- Only areas not cluttered are the “walkways”
- Objects in front of doors and windows
- Furniture blocking windows
- Cleaning supplies stacked on top of each other or not in an enclosed area
- Small objects accumulated throughout the house and stacked up presenting a possible choking hazard for children

(3) When determining that the animals/pets are safe to be around members of the household and foster children, the following should be considered:

- a. Are the animals always “put away” when you are at the house?
  - Do they have good temperaments?
  - Do they allow you to interact with the pet?
  - Is the applicant/foster parent providing the proper safety precautions:
  - Birds: Do they have cages?
  - Reptiles: Are they in aquariums or other safe enclosures?

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- b. Farm animals: Are they inaccessible to children or only accessible with supervision? Are barns and pens locked?
- c. All animals are to have a current license and current vaccinations in accordance with laws of the local municipality:
  - i. Did you review the license?
  - ii. Did you review the vaccination records?
- d. If the family has “exotic” pets, such as snakes, does the municipality have regulations regarding those types of pets?
  - (4) The water of the pools, spa, and hot tubs must be properly sanitized and safe. The applicant/licensee is to be asked what the routine is for keeping the water area sanitized and safe. When one looks at the water, is it clear and does it look clean?

**R 400.9302 Heat, light, and ventilation (FH Rule)**

- (1) *A foster parent shall ensure that the foster home heat, light, and ventilation is adequate.*
- (2) *A foster parent shall ensure that the foster home windows and doors are screened if used for ventilation.*

Rule Interpretation:

- Is the home comfortable, and airy?
- Are there adequate light fixtures for evening purposes?
- If the home is being inspected during the winter, are screens available for installation during warm weather?
- If screens are not available, does the home have central air conditioning?
- Is the heating system adequate for all areas of the home?

**R 400.9303 Flame and heat-producing equipment; maintenance; inspection (FH Rule)**

- (1) *A foster parent shall ensure that all of the following items are maintained in safe condition:*
  - (a) *Furnace.*
  - (b) *Water heater.*
  - (c) *Fireplace.*
  - (d) *Pipes.*
  - (e) *Radiators.*
  - (f) *Wood-burning stoves.*
  - (g) *Other flame-producing or heat-producing equipment.*
- (2) *Portable heating devices may be used for up and awake activity, except in bedrooms.*

Rule Interpretation:

The agency should develop a written policy regarding what is expected regarding equipment maintenance and evaluate if it is being followed.

- Are regular maintenance checks done of the items listed in (a) – (g)?
- Are combustibles kept away from these devices?
- If there is an existing wood-burning device that is utilized for any purpose:

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- Do proper clearances exist around the device?
- Is the homeowner's or renter's insurance company aware of the wood burning device?
- Was the device installed by a company/person qualified to do so?
- Is there a safety barrier in place for young children?
- 

If there are questions regarding the safety of wood-burning devices, the local fire department may be a source for information or home inspection.

(2) Bedrooms must be free of portable heating devices at all times.

**R 400.9304 Smoke detectors; carbon monoxide detectors (FH Rule)**

(1) *A foster parent shall ensure that at least 1 single-station smoke detector that is approved by a nationally recognized testing laboratory is installed and maintained as follows:*

(a) *On each floor of the home, including the basement.*

(b) *Between the sleeping area and the rest of the home. In a home that has more than 1 sleeping area, a foster parent shall ensure that a smoke detector is installed and maintained to protect each separate sleeping area.*

(c) *In areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers.*

(2) *A foster parent shall ensure that at least 1 carbon monoxide detector that is approved by a nationally recognized testing laboratory is installed and maintained in an area of the home as recommended by the manufacturer.*

**R 400.9305 Bathrooms; water supply; sewage disposal (FH Rule)**

(1) *A foster parent shall ensure that the foster home has a minimum of 1 flush toilet, 1 washbasin that has warm and cold running water, and 1 bathtub or shower that has warm and cold running water, all of which shall be in working order.*



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- (2) *A foster parent shall ensure that the temperature of water available from outlets accessible to a foster child shall not exceed 120 degrees Fahrenheit.*
- (3) *A foster parent shall ensure that the foster home that provides care to a foster child who regularly requires the use of a wheelchair has bathroom facilities that are readily accessible to the foster child.*
- (4) *A foster parent shall ensure that the foster home water supply is from a source that is approved for a private home by the health authority.*
- (5) *A foster parent shall ensure that all sewage is disposed of through a public system or, in the absence of a public system, in a manner that is approved for a private home by the health authority.*

An Environmental Health Inspection must be requested and received if the home has a private water supply or a non-public sewage system for both original licenses and when a family relocates. If, as a result of a new mortgage or new construction, the home has had an inspection within the last 12 months and the agency can obtain verification of the inspection, it is not necessary to request another inspection. (See information on environmental inspections starting on page 45.)

### Rule Interpretation:

- (1) When determining if the bathroom is usable for the foster family, the following should be considered:
  - Is there warm and cold running water?
  - Does the toilet flush?
  - Do the sink, shower, and tub drain?
- (2) When determining if the water temperature is 120 degrees or lower, the water must be tested at different faucets with a thermometer.
- (3) When determining if the bathroom is readily accessible to a foster child who regularly uses a wheelchair, the following is to be considered:
  - Is the child able to pass through the entrance of the bathroom in their wheelchair?
  - Are the bathroom fixtures, i.e. toilet, wash basin, tub/shower accessible to the child based on their individual needs?
  - When placing a child in the home that regularly uses a wheelchair, the agency is to determine the specific needs of that child before placement.
- (4) and (5): See page 45-47 of the Technical Assistance Manual.

### **R 400.9306 Bedrooms (FH Rule)**

- (1) *A foster parent shall ensure that bedrooms comply with all of the following provisions:*
  - (a) *Provide an adequate opportunity for both rest and privacy and access to adult supervision as appropriate for the age and functioning level of each child.*

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- (b) *Have not less than 40 square feet of floor space per person, excluding closets.*
  - (c) *Have sufficient space for the storage of clothing and personal belongings.*
  - (d) *Have a finished ceiling, floor-to-ceiling permanently affixed walls, and finished flooring.*
  - (e) *Have a latchable door that leads directly to a means of egress. As used in this rule, latchable means that the door can be closed and will remain closed until someone opens it. Latchable does not mean lockable.*
  - (f) *Have at least 1 outside window that complies with all of the following provisions:*
    - (i) *Is accessible to children and caregivers.*
    - (ii) *Can be readily opened from the inside of the room.*
    - (iii) *Is of sufficient size and design to allow for the evacuation of children and caregivers.*
  - (g) *Be free of all of the following:*
    - (i) *Household heating equipment.*
    - (ii) *Water heater.*
    - (iii) *Clothes washer.*
    - (iv) *Clothes dryer.*
- (2) *A foster parent shall not use as a bedroom a room that is primarily used for purposes other than sleeping. A foster parent shall not use any of the following as a bedroom:*
- (a) *A hall.*
  - (b) *A closet.*
  - (c) *A stairway.*
  - (d) *A garage.*
  - (e) *A shed.*
  - (f) *A detached building.*
  - (g) *A room or space, including an attic, that is accessible only by a ladder, folding stairway, or through a trapdoor.*
- (3) *A foster parent shall comply with the standards set forth in the U.S. Consumer Product Safety Commission, Safety Standards for Full Size Cribs and Non-Full Size Baby Cribs; Final Rule, 16 CFR Parts 1219, 1220, and 1500, (<http://www.cpsc.gov>) for the age of the child using the equipment and also comply with all of the following:*
- (a) *All blankets shall be appropriate for the weather.*
  - (b) *All bedding and equipment shall be in good repair and cleaned and sanitized before being used by another person.*
  - (c) *All bedding used by children shall be washed when soiled or weekly at a minimum.*
  - (d) *A clean pillow is available for children 2 years of age and older*
  - (e) *Infants, birth to 12 months of age, shall rest or sleep alone in a crib that meets the needs of the infant and the conditions of subdivision (f) of this subrule.*

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- (f) *All cribs shall be equipped with all of the following:*
  - (i) *A firm, tight-fitting mattress with a waterproof, washable covering.*
  - (ii) *No loose, missing, or broken hardware or slats.*
  - (iii) *Not more than 2 3/8 inches between the slats.*
  - (iv) *No corner posts over 1/16 inches high.*
  - (v) *No cutout designs in the headboard or footboard.*
  - (vi) *A tightly fitted bottom sheet shall cover the mattress with no additional padding placed between the sheet and mattress*
- (g) *An infant's head shall remain uncovered during sleep.*
- (h) *Soft objects, bumper pads, stuffed toys, blankets, quilts or comforters, and other objects that could smother a child shall not be placed with or under a resting or sleeping infant.*
- (i) *Blankets shall not be draped over cribs.*
- (j) *Infant car seats, infant seats, infant swings, bassinets, highchairs, playpens, pack 'n' plays, waterbeds, adult beds, soft mattresses, sofas, beanbags or other soft surfaces are not approved sleeping equipment for children 24 months of age or younger.*
- (k) *Children 24 months 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.*
- (l) *The foster parent shall have the appropriate number and types of beds/cribs available in the home prior to licensure or a change in terms for all children who will be covered under the terms of the license.*

Rule Interpretation:

- (1) (a) When determining if the bedroom has adequate opportunity for rest and privacy and access to adult supervision, the following are to be considered:
  - Are the bedrooms for children on the same floor as the adults? Do they need to be, based on age and functioning level of children in the home or to be placed in the home?
  - Is it a loft bedroom? Is the bedroom in the basement?
  - Is it a tandem bedroom?
- (c) Bedrooms are to have space for an individual's personal belongings. A closet space, dresser, or other appropriate storage unit within the room may be used.

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- (e) Bedroom doors may have locks on them, but the locks must be able to be unlocked from the outside with a key, and from the inside without a key. Nothing may be installed on a bedroom door that prevents egress from the room, i.e. children may not be locked inside a bedroom.
- (f)(i)(ii)(iii) When determining if the bedroom window complies with this subrule, the following should be considered:
- a. If there are security bars on the bedroom windows, the bars must be able to be opened from inside the room via a "panic-bar" release or a key that remains in the key hole on all of the barred windows.
  - b. If the windows are high up on the wall, can the window be accessed by the person who will use the room?

Sleeping arrangements must include sleeping supplies such as a mattress and linens for each individual child as appropriate to their needs and age. All children in the home must be treated equitably, meaning each child has sleeping arrangements similar to other household members.

Until licensing rules are updated, variances for Rule 400.9306 will continue to be reviewed for approval. Variances must contain required information and describe how the safety, care and supervision of the foster children will be maintained.

### **R 400.9307 Exits (FH Rule)**

- (1) *A foster parent shall ensure that there are 2 exits from each floor level used by a family member. A foster parent shall ensure that the exits are remote from each other and that 1 of the exits provides a direct, safe means of unobstructed travel to the outside at street or ground level.*
- (2) *A window may be used as a second exit if it is in compliance with all of the following provisions:*
  - (a) *Is accessible to children and caregivers.*
  - (b) *Can be readily opened from the inside of the room.*
  - (c) *Is of a size and design to allow for the evacuation of children and caregivers.*
- (3) *If a family member occupies a level of a home that is above the second floor, then the building shall have 2 stairways to ground level, at least 1 of which shall provide a direct means of egress to the outside at ground level.*

**R 400.9308 Telephone (FH Rule)**

- (1) *A foster parent shall ensure that a working telephone is available in the foster home at all times.*
- (2) *A foster parent shall ensure that emergency telephone numbers which follow appropriate agency protocol are within sight of the telephone.*
- (3) *The foster parent shall provide the home telephone number to the certifying agency and shall inform the agency within 24 hours if the number changes.*

**Rule Interpretation:**

- (1) A telephone must be available in the home. A cell phone meets the requirements of this rule if the phone always stays in the home, even when no one is home. The phone may be a landline, cell phone, prepaid phone (as long as there are an available and appropriate amount of minutes). The home phone must be able to contact all numbers on the emergency phone number list.
- (2) Emergency telephone numbers must be posted within sight of the phone. The agency is to provide telephone numbers and written protocol for foster parents to follow in emergency situations.
- (3) The foster family is to notify the agency when their home phone number changes or if it is no longer in use.

**R 400.9309 Wheelchair access (FH Rule)**

*A foster parent shall ensure that a foster home which provides care to a foster child who regularly requires the use of a wheelchair is wheelchair accessible.*

If a home does not provide care to a child requiring regular use of a wheelchair, the foster home does not have to be wheelchair accessible.

**R 400.9310 Smoking (FH Rule)**

- (1) *An individual shall not smoke any substance inside the foster home while foster children are placed in the home.*
- (2) *An individual shall not smoke inside a vehicle while transporting foster children.*

Rule Interpretation:

- (1) Once a child has been placed in the home, no substances may be smoked in the home. This includes when the foster child is not at home, but still placed in the home. An adult may smoke in an attached garage if there is a door that can be closed to keep the smoke out of the house.
- (2) When a foster child is in a vehicle with an individual, no smoking is to occur in the vehicle.

**Foster Care**

**R 400.9401 Child capacity; living arrangement (FH Rule)**

- (1) *Both of the following apply to the capacity of a foster home:*
  - (a) *Not more than 8 children under 17 years of age, including children of the foster parents, may live in or receive foster care in a foster home at any given time.*
  - (b) *If a foster home is concurrently licensed for child care, the total number of children under 17 years of age, including children of the foster parents, who live in or receive care in the foster home, shall not exceed 12. The foster home shall comply with all applicable licensing rules for both foster homes and child care homes.*
- (2) *All of the following apply to infants:*
  - (a) *Not more than 2 children under 1 year of age, including the children of the foster parents, may receive care in a foster home at any time.*
  - (b) *Children birth to 12 months of age shall sleep alone in a crib.*
  - (c) *An infant shall be placed on his or her back for resting and sleeping*
  - (d) *An infant unable to roll from stomach to back and from back to stomach; when found face down shall be placed on his or her back.*
  - (e) *An infant who can easily turn over from his or her back to his or her stomach shall be initially placed on his or her back, but allowed to adopt whatever position he or she prefers for sleep.*
  - (f) *For an infant who cannot rest or sleep on her/his back, the foster parent shall have written instructions, signed by a physician, detailing an alternative safe sleep position and/or other special sleeping arrangements for the infant.*
  - (g) *The foster parent shall maintain supervision and frequently monitor infants' breathing, sleep position, and bedding for possible signs of distress. Baby monitors shall not be used exclusively to comply with this subdivision.*
- (4) *A child who is non-ambulatory and cannot readily be carried by 1 member of the household shall sleep in a bedroom that has a means of exiting at ground level.*
- (5) *A child shall not share a bedroom with a non-parent adult unless 1 of the following conditions exists:*

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- (a) The child and adult are siblings of the same sex.*
- (b) The child and adult are foster siblings who were sharing the bedroom prior to 1 of them turning 18 years of age.*
- (c) The child has a special medical need that requires the attention of an adult during sleeping hours.*
- (6) A minor child, 3 years of age or older, shall not routinely share the same bedroom with a parent.*
- (7) Children of the opposite sex, any of whom are more than 5 years of age, shall not share the same bedroom.*
- (8) Each child shall sleep alone in a bed that is sufficient to meet the functioning level, size, length, and other special needs of the child.*
- (9) Resting or sleeping areas shall have adequate lighting to allow the foster parent to assess children.*

### Rule Interpretation:

- (1)(a)(b) To determine the number of children less than 17 years of age, birth, foster, guardianships, adopted, and relative children are all counted if they are less than 17 years of age. When a home is also licensed for child care, the total licensed child care capacity is counted. The number of child care children being cared for at any one point in time may be less than the licensed capacity, but the licensed child care capacity is the number that is to be used to determine the home's foster home capacity and compliance with this rule. No more than 12 children may be cared for if the home is concurrently licensed for child care. As the child care rule has not changed, more than 8 total children in a concurrently licensed home still requires a variance for the child care license.
  - An approved variance from Child Care Licensing is required prior to licensure as foster parents.
- (2) Placement of triplets under 1 year of age requires a variance to this rule.
- (3) Infants shall sleep in an approved crib. See R.400.9306 (3) (a-k).
- (4) An infant or young child who is non-ambulatory but small enough to be carried may use a bedroom above the ground level of the foster home.
- (5) (a)(b) If a foster child and a birth child or foster children have been sharing a bedroom and a sibling relationship exists, when the birth child or foster child turns 18 they may continue sharing the bedroom as siblings and be in compliance with the rule. A new foster child may not be placed in the bedroom with the now 18 year-old birth or foster child unless there is a variance, however, as the "sibling" relationship did not previously exist.
  - (c) A child may share a bedroom with a non-parent adult if the child needs documented special medical attention throughout the night.

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If a child is sharing a bedroom with a non-parent adult because of a medical need the agency is to document:

- The child's need.
  - If the child will outgrow the medical problem.
  - Expected time frames for this to occur.
  - How privacy for the adult and child are to be assured.
- (6) Does any child under three years old routinely sleep in the foster parent bedroom? The agency is to document the plan for modifying sleeping arrangements once the child turns 3 years of age. "3 years of age or older" means 3 years old plus one day. Any request for a variance to this section of the rule is to be submitted prior to the child turning 3.
- (7) More than 5 years of age" means 5 years of age plus one day.
- (8) Each child shall have their own bed prior to licensure and placement. No child is to share a bed with another child or adult. Situations that involve children who have nightmares, problems sleeping, get out of bed at night, etc. should not be considered rule violations. Prudent parent standards should be referenced.
- (9) The foster parent is to have the proper lighting in resting and sleeping areas so that they can check in on the child.

### **R 400.9402 Child placement (FH Rule)**

- (1) *A foster parent shall receive a foster child for care only within the approved placement specifications.*
- (2) *A foster parent shall receive a foster child for care only within the terms of the foster home license.*
- (3) *A foster parent shall receive a foster child for care only from the agency that certified the home or from another agency with the prior approval of the agency that certified the home.*

#### Rule Interpretation:

If an agency does not wish to allow their foster homes to accept private placements, i.e. any placements not supervised by a child placing agency, this must be specified in the agency's Foster Parent-Agency Agreement .

- (1) Placement specifications include the characteristics, age, gender, and race of children: preferred by the family; best served by the home; and of children who may not be placed in the home.
- (2) Terms of the license include number of children who may be cared for at any one time (capacity) and the service types identified by the agency.
- (3) Only the foster home's certifying agency may approve the placement of a child by another child placing agency. (Please reference the borrowed home rule, R400.12326.)
- (4) Non-regulated family courts, i.e. courts that are not regulated as approved governmental units by the Division of Child Welfare Licensing, may not



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borrow foster homes unless there is an approved variance prior to the placement being made.

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- (5) Other non-regulated agencies, such as community mental health organizations, wrap-around programs, etc. may not borrow foster homes under any circumstance.

### **R 400.9403 Foster parent duties (FH Rule)**

*A foster parent shall carry out each of the following functions:*

- (a) Cooperate with and assist the agency in the agency's implementation of the service plan for children and their families.*
- (b) Fully disclose to the agency information concerning a foster child's progress and problems.*
- (c) Provide written notification to the agency of the need for a foster child to be moved from the foster home not less than 14 calendar days before the move, except when a delay would jeopardize the foster child's care or safety or the safety of members of the foster family.*
- (d) Maintain a copy of and follow the agency's written policies and procedures for foster parents and foster care, including the policies and procedures for all of the following:*
  - (i) Behavior management as required by R 400.12313.*
  - (ii) Religion as required by R 400.12314.*
  - (iii) Communication as required by R 400.12315.*
  - (iv) Education as required by R 400.12409.*
  - (v) Personal possessions as required by R 400.12316.*
  - (vi) Allowance and money, as required by R.400.12317.*
  - (vii) Clothing as required by R 400.12318.*
  - (viii) Emergencies as required by R 400.12323.*
  - (ix) Medical and dental care as required by R 400.12413.*
  - (x) Substitute care as required by R 400.12319.*
  - (xi) Supervision as required by R.400.12320.*
  - (xii) Incident reporting as required by R 400.12322.*
  - (xiii) Hazardous materials as required by R 400.12321.*

### Rule Interpretation

Generally, agency policies may be more restrictive than the minimum required in the rules as long as the policies are not discriminatory and do not violate the Elliot Larsen Civil Rights Act. Agency rule compliance is determined by adherence to the agency's policies when they are more restrictive.

- (a) Agencies must involve foster parents in the development of service plans for children placed in their home. Completed service plans must be reviewed with foster parents. It is important for agencies to understand that foster parents can only cooperate and assist the agency in the implementation of the service plan when the expectations of the agency have been made clear to the foster parents. Documentation that the service plan has been reviewed

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with the foster parents and that they understand what they are to do to assist in the implementation of the plan is recommended.

- (b) Foster parents must share information fully and truthfully with the agency regarding how foster children are doing. An agency may:
- Establish a set schedule for providing information, i.e. at monthly home visits.
  - Provide directives on how information is to be provided. An agency is to be specific regarding who the foster parent is to contact within the agency when there is progress or a problem.
  - Identify what types of information is expected to be provided, such as:
    - Progress in development.
    - Problem resolution.
    - Current problems in any area.
    - School difficulties.
    - Inability to get along with others.
    - Behaviors after family visits.
    - Changes in sleep patterns
    - Medication adjustments or changes in dose/prescription.
- (c) Foster parents are to provide sufficient notice, at least 14 days, to allow for moves to be planned. This will enable the agency to locate the most appropriate placement to meet the child's needs and allow the child time for "goodbyes" to significant individuals, such as teachers, neighbors and friends.

If the child's presence in the home would jeopardize the safety of the child or other members of the household, foster parents may request that the move be made more quickly - without being in violation of this rule. The agency is to provide guidelines of appropriate reasons to move a child and the agency's notification process in written policy.

- (d) Agencies are required to provide a copy of their written policies and procedures to all of their licensed foster homes. Foster parents are required to maintain a copy of and to follow the agency's written policies. Agencies are required to train foster parents on agency policy and to ensure that each foster parent understands the content and expectations of each policy.

Agencies may want to have foster parents sign a statement regarding training expectations and receipt of agency policies. This statement could be part of the agency's placement agreement document.

### **R.400.12313 Behavior management policy (CPA Rule)**

- (1) *An agency's behavior management policy shall identify appropriate and specific methods of behavior management for foster children.*
- (2) *An agency shall ensure that methods of behavior management for a foster child are positive and consistent, based on each foster child's needs, stage of*

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*development, and behavior, and promote self-control, self-esteem, and independence. Problems of child training shall be handled with sympathy and understanding.*

- (3) *All of the following are prohibited:*
- (a) *Corporal punishment, excessive restraint, or any kind of punishment inflicted on the body.*
  - (b) *Confinement in an area such as a closet or locked room.*
  - (c) *Withholding food, clothing, rest, toilet use, or entrance to the foster home.*
  - (d) *Mental or emotional cruelty.*
  - (e) *Verbal abuse, threats, or derogatory remarks.*
  - (f) *Prohibiting visits or communication with a foster child's family.*
  - (g) *Denial of necessary educational, medical, counseling, or social work services.*
- (4) *A foster parent may use reasonable restraint to prevent a foster child from harming himself or herself, or other persons, or to prevent serious property damage.*

**R 400.9404 Behavior management (FH Rule)**

- (1) *A foster parent shall follow the behavior management plan developed for each foster child by the child's social services worker.*
- (2) *A foster parent may use reasonable restraint to prevent a foster child from harming himself or herself, other persons, or property or to allow the child to gain control of him or herself.*

Rule Interpretation:

- (1) The agency is responsible for developing a behavior management plan for each child in care in addition to the agency's general behavior management policy (CPA R 400.12313). The plan must be consistent with the agency's general behavior management policy and is to be specific to the child and relate to the child's age, stage of development, and special needs. This must be included in each child's service plan.

Foster parents are responsible for following the written plan and alerting the agency when the plan does not appear to be effective. The agency must make sure that the foster parents are familiar with each child's behavior management plan and how to implement it.

- (2) The agency is to clearly define reasonable restraint in the behavior management policy. If the agency has reason to believe that restraint will be needed for a specific child, it is the agency's responsibility to train the foster parent in the acceptable methods of restraint.

**R.400.12314 Religion Policy (CPA Rule)**

*An agency's religion policy shall, at a minimum, ensure that the foster child has the opportunity to receive religious instruction and attend religious services. A foster child shall not be required to attend religious services or follow specific religious doctrine.*

**R 400.9405 Religion (FH Rule)**

*A foster parent shall follow the agency's religion policy.*

Rule Interpretation:

Consideration of the foster parent's religious beliefs and practices and a child's religious beliefs and practices are a pre-placement issue. It is helpful to review with the family what faiths/religions the family is willing to support in their home and include this information in written evaluations.

Agencies are to assist foster parents in planning for a child to attend religious services that are different from those the foster parent attends. Conversely, agencies are to advise foster parents regarding a foster child's participation in the foster parent's religious practices. A foster child cannot be made to attend the foster parent's religious services. If the foster child or their parents object, other arrangements will need to be put into place for childcare during the time that the foster parents attend church.

When there is a conflict between foster youth and birth parents regarding religious participation, the foster care worker should attempt to resolve the conflict.

**R 400.12315 Communication (CPA Rule)**

*An agency's communication policy shall ensure that a child is able to communicate with family and friends in a manner appropriate to the child's functioning and consistent with the child's treatment plan.*

**R 400.9406 Communication (FH Rule)**

*A foster parent shall comply with the agency's communication policy.*

Rule Interpretation:

Agency policy is to address the following with regard to US Postal mail and E-mail and other forms of social media:

- Conditions under which mail may be censored and who makes the decision/does the censoring.
- What happens to mail that is censored, i.e. returned to sender, opened in the presence of the child so content can be discussed, kept in the child's case file, etc.
- Who decides what is not acceptable for a foster child to receive?

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- Who buys the stamps?
- Who may open suspicious mail or mail from a person with whom the child is not to have contact?

Telephone usage is to be addressed in a similar manner and included in the agency's policy regarding communication:

- Restrictions on calls and cell phones, regardless of who provides the cell phone.
- Time limits for calls.
- Phone lists – who decides who a foster child may call and/or receive calls from?
- Must phone calls to family be made from the agency in the presence of agency staff? Are there other restrictions on communication with family members?
- Phone cards.
- Caller ID and blockage
- Twitter, Instagram, Facebook, and other social networking communication are to be addressed in the agency's policy.

### **R 400.12409 Education (CPA Rule)**

*An agency's education policy shall ensure that, within 5 school days of placement, an agency shall provide for the enrollment of each child of school age, as defined by state law, into a school program.*

### **R 400.9407 Education (FH Rule)**

*A foster parent shall cooperate with the agency to implement the education or training plan for a foster child to ensure that a school-age child attends school or a training program and shall participate with the school or the training program in educational planning.*

#### Rule Interpretation:

The agency must provide required documents, including immunization records, to the foster parent to enable the foster parent to enroll the child in a school program.

Foster parents are expected to:

- Assure that a child attends school on a regular basis.
- Cooperate with birth parents who wish to be involved in the educational planning for their child when the agency determines this is appropriate.
- Participate in planning a child's educational program, including attending IEP meetings.
- Attend parent/teacher conferences.

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- Co-operate with school personnel when a child experiences educational or behavioral problems at school.
- Monitor study time/homework completion.
- Homeschooling is not an allowable alternative for DHHS foster children or foster children served by agencies under contract to DHHS.
- An online school may be an appropriate method of attending school if the youth has been expelled from school. A policy variance is needed for a DHHS or contract agency supervised foster youth. Many schools include some online school programs within the traditional school program. This is acceptable.
- Any non-traditional school program requires a policy variance.

### **R 400.12316 Personal possessions (CPA Rule)**

*An agency's personal possession policy shall, at a minimum, address both of the following:*

- (a) Assuring that a child has a right to have his or her personal possessions during placement with a foster family and when leaving the foster family.*
- (b) All gifts and clothing that are purchased for the child during placement with the foster family remain the property of the foster child.*

### **R 400.9408 Personal possessions (FH Rule)**

*A foster parent shall comply with both of the following:*

- (a) Assure that a child has a right to have his or her personal possessions during placement with the foster family or to have them stored in a safe and secure manner when leaving the foster family.*
- (b) All gifts and clothing that are purchased for the child during placement with the foster family remain the property of the foster child.*

#### Rule Interpretation:

(a)(b) A foster parent must allow the foster child to have their personal possessions while in care when appropriate and return all possessions of a foster child before they leave the placement.

- The agency is to either make a list or have the foster parent make a list of all the child's possessions at the time of placement. The list is to be kept current for the duration of the child's placement.
- Consideration should be given to memories associated with certain possessions before foster parents attempt to replace and/or remove an item.

### **R 400.12317 Allowance and money policy (CPA Rule)**

- (1) The agency's policy on allowance shall, at a minimum, specify the following:*
  - (a) General guidelines that provide monetary range based on a child's age.*

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*(b) Allowance for specific youth will be determined by the social services worker and the foster parent based on the child's age and treatment needs.*

*(c) How the agency monitors allowance.*

*(2) Any money earned or received directly by the child remains the property of the child.*

**R 400.9409 Allowance and Money (FH Rule)**

*(1) A foster parent shall follow the agency's policy on allowance.*

*(2) Any money earned or received directly by the child remains the property of the child.*

Rule Interpretation:

(1) The agency is to have a specific method for the foster parent to account for, and keep a list of, any cash or valuables that belong to each foster child and that are entrusted to the care and control of the foster parent.

If withholding allowance is used as a behavior management technique, there are to be agency guidelines for how the withheld money is to be used, i.e. does it go into the child's savings account, does it go to replace a broken item, does it go into the child's clothing account, etc. Allowance that is withheld must be accounted for.

(2) The foster parent is to give the child or an agency representative all of the foster child's allowance or money earned when the child moves from the home. Presents given to the child become the child's property.

**R 400.12318 Clothing (CPA Rule)**

*The agency's clothing policy for foster parents shall specify both of the following:*

*(a) A foster parent shall ensure that a foster child has the minimum required clothing specified by the agency's policy and leaves the foster home with not less than the minimum required clothing.*

*(b) All clothing the child has when he or she arrives at the foster home and all clothing purchased for the child while in the foster home remains the property of the foster child.*

**R 400.9410 Clothing (FH Rule)**

*All clothing the child has when he or she arrives at the foster home and all clothing purchased for the child while in the foster home remains the property of the foster child.*



Rule Interpretation:

An agency is to complete or is to have the foster parent complete an inventory of the clothing a child has when the child enters the foster home. A foster parent is to make sure a foster child has sufficient clothing for each season of care. Clothing purchased for a child becomes the property of the child. When a child outgrows clothing or wears it out, the foster care worker is to be consulted about what to do with that clothing. The biological family may need to be consulted, depending on circumstances, to see if they would like the clothing before the foster family or the agency can dispose of it in another manner. The foster parent is to give the foster child, or a representative from the agency, all of the child's clothing when the child moves from the home.

**R 400.12323 Emergencies (CPA Rule)**

- (1) *An agency's emergency policy shall at a minimum contain provisions for ensuring that a foster parent has agency-approved written procedures for each of the following emergencies:*
  - (a) *Fire*
  - (b) *Tornado*
  - (c) *Serious accident or injury*
- (2) *An agency shall approve the written evacuation plan for a foster home that provides care of a person who requires assistance to evacuate the home.*

**R 400.9410 Emergencies (FH Rule)**

- (1) *A foster parent shall follow the approved written procedures for each of the following emergencies:*
  - (a) *Fire.*
  - (b) *Tornado.*
  - (c) *Serious accident or injury.*
- (2) *A foster parent who provides care for a person who requires assistance to evacuate the home shall follow agency approved written procedures for prompt evacuation.*
- (3) *A foster parent shall familiarize each member of the household, including the foster child according to the child's ability to understand, and persons who provide substitute care with the emergency and evacuation procedures.*

Rule Interpretation:

- (1) There is to be a clear explanation of what types of accidents and illness the agency considers serious. The procedures may cover other types of emergencies that the agency expects the foster parents to be able to handle.
- (2) When care is provided to a person who needs assistance in evacuating the home, written procedures for getting the person out of the home are to be prepared and approved by the agency.
- (3) The foster parent is responsible for making sure that all members of the household, including foster children, and all substitute caregivers are familiar

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with all emergency procedures. Foster parents should have regular fire drills, especially when a new placement is made at the home.

**R 400.12413 Medical and dental care policy (CPA Rule)**

- (1) *An agency's medical and dental care policy shall, at a minimum include all of the following:*
- (a) *The provision of routine medical care.*
  - (b) *The provision of emergency medical, surgical, and dental care.*
  - (c) *A physical examination for each child as follows, unless a greater frequency is medically indicated:*
    - (i) *For a child under 2 years of age, a physical examination shall have been completed within 3 months before placed in foster care or a new physical examination shall be completed within 30 calendar days after being placed in foster care.*
    - (ii) *For a child 2 years of age or older, a physical examination shall have been completed within 12 months before placement or a new physical examination shall be completed within 30 calendar days of placement.*
    - (iii) *A physical examination every 14 months.*
  - (d) *Current immunizations for each child as required by section 5111 of 1978 PA 368 MCL 333.5111. All of the following apply:*
    - (i) *A statement from the parent or licensed medical authority which indicates that immunizations are current or contraindicated is sufficient documentation of immunizations.*
    - (ii) *A copy of waiver addressed to the department of community health **signed by** the parent stating immunizations are not being administered due to religious, medical, or other reasons is sufficient documentation of immunizations.*
    - (iii) *If documentation of immunization or a copy of the waiver is unavailable, then immunizations shall begin 30 calendar days of placement.*
  - (e) *The provision of any dental treatment necessary for a child who is less than 4 years of age.*
  - (f) *The provision of a dental examination and any treatment required for each child who is 4 years of age or older, including both of the following:*
    - (i) *A dental examination within 12 months before placement or a new dental examination shall be completed not more than 90 calendar days after placement.*
    - (ii) *A dental reexamination shall be obtained at least every 18 months, unless a greater frequency is indicated.*
- (2) *An agency shall have documentation from the medical or dental provider of all medical and dental care received by the foster child.*

**R 400.9412 Medical and dental care (FH Rule)**

- (1) A foster parent shall follow and carry out the health plan for a foster child as prescribed by a physician, health authority, or the agency.*
- (2) A foster parent shall follow agency approved protocols for medical care of a foster child who is injured or ill.*
- (3) A foster parent shall ensure that medications, both prescription and nonprescription, are inaccessible to children and properly stored unless there is an alternative direction from the prescribing physician.*
- (4) A foster parent shall ensure that prescription medication is given or applied as directed by a licensed physician.*

Rule Interpretation:

- (1) The agency is to clearly identify expectations for obtaining routine physical and dental examinations, including time frames and documentation requirements.

The agency, under the requirements of CPA R 400.12404(3)(b), has a responsibility to place a child where the child's physical needs can be met. If such a placement requires special health care training for the foster parent, the agency is responsible for making sure the foster parent has or obtains the necessary training.

The agency is to provide the foster parents with all known information regarding the child's health at the time of placement. As more information becomes available, such information is to be shared with the foster parent.

The foster parent is responsible for following any medical/health plan put in place by a physician, another health authority or the agency, including any follow-up medical care.

- (2) The agency's policy and procedure for medical care of a foster child who is injured or ill is to include:
  - Clear minimum expectations about when a foster child should be taken to the doctor for illness or injury.
  - Who is to be notified?
  - Time frames for notification.
  - Method of notification.
  - Documentation requirements.

- (3) Foster parents are to assure that all prescription medication is properly labeled and dispensed. Medication logs may be required by agency policy.

**R 400.12319 Substitute care (CPA Rule)**

*An agency's substitute care policy shall, at a minimum, contain provisions for all of the following:*

- (a) Qualifications for substitute caregivers, consistent with the requirements of 1973 PA 116 and child care licensing rules.*
- (b) Conditions under which substitute care may be utilized.*
- (c) Any planned substitute care shall be consistent with the child's treatment plan.*
- (d) Notification of the agency, by the foster parent, before the beginning of any planned overnight substitute care.*
- (e) Notification of the agency, by the foster parent, within 24 hours of any unplanned absence which requires substitute care for a period of 24 hours or more.*
- (f) A foster parent must notify any substitute care provider of the agency's policies relating to care and supervision and the care the provider must follow the policies.*

**R 400.9413 Substitute care (FH Rule)**

- (1) A foster parent shall follow the agency's substitute care policy.*
- (2) A foster parent shall ensure that appropriate care and supervision are provided for foster children at all times consistent with the child's treatment plan.*
- (3) A foster parent shall identify a primary substitute caregiver who agrees to follow the agency's policies of the certifying agency.*

Rule Interpretation:

- (1) An agency must have a substitute care policy. The foster parent must follow the agency policy. Substitute caregivers include baby-sitters and child care providers. The policy must be in accordance with CPA R 400.12319. ICHAT and Central Registry checks must be completed on primary substitute care providers before they can provide care to the children.
- (2) The foster parent is responsible for the care provided to a foster child even when substitute care is being utilized. The foster parent is to share relevant information concerning the foster child/ren to substitute care providers so they can provide appropriate care. Foster parents are to provide relevant treatment information before the substitute care provider may provide care to the foster children.
- (3) Substitute caregivers must be oriented to the agency's policies. The foster parent is responsible for ensuring this occurs. An agency should have a/the substitute care providers sign a document stating they have received information on the agency's policies and understand the policies. Foster

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parents are responsible for assuring that all agency policies are followed by all substitute caregivers.

The agency is to identify the conditions under which substitute care may be utilized.

- (1) Be specific regarding to who is to be notified when substitute care is necessary for 24 hours or more, including time frames for notification and methods of notification.
- (2) If substitute care requirements for a specific child are different than the policy expectations, a child specific substitute care plan is to be developed and incorporated into the child's service plan.
- (3) There is no clear rule in the Foster Home rule book related to supervision of children. CPA R.400.12320 outlines what an agency supervision policy is to include.
- (4) "Respite care" is a term that is not used in either Act 116 or the rules. There is no legal definition of that term. Substitute care is any care provided by someone other than the licensee. The foster parent, not the agency, makes substitute care arrangements. Substitute care may be provided in the child's foster home or in the home of the substitute caregiver.
- (5) In accordance with Act 116, care provided outside of the foster home that lasts 4 or more days a week for two or more consecutive weeks is foster care and requires the person providing the care to be licensed (See Act 116, MCL 722.111, Sec. (1)(f)(i) & (ii)).

Note: Any care arranged by the agency is a placement, and must meet all requirements for placement identified in the child placing agency rules, including not placing a child in a foster home that would create a violation of the foster family home rules. An agency may not place a foster child in an unlicensed home except under the conditions outlined in CPA R 400.12404 (1) and R 400.12709(5).

- There is confusion about what is a "visit" versus a placement when a child is in a different foster home for overnight or longer. The most common scenarios are "visits" between siblings placed in separate homes and "visits" in a foster home related to a future adoptive placement.
- It is a placement any time the child is in the alternative home for more than 4 days a week for more than 2 weeks or more than 11 consecutive days.
- It is a visit if the responsible foster parent is available to come and get the child if there is a problem. If the responsible parent is not available, it is a placement, or substitute care, depending on how the arrangements were made and by whom, as long as the time in the alternative situation does not exceed the times noted above.
- Any plan for overnight visits in a licensed foster home of more than 24 hours must take into consideration the number of children in the home, the

behaviors and needs of the children in the home, and the ability of the foster parent to handle another child.

- If the visit is being made in a foster home certified by another agency, there is to be consultation with the certifying agency regarding these factors prior to arranging the visit.
- Foster parents should be able to exercise judgment regarding acceptable child activities such as school clubs, sports, an overnight with a friend, attendance at a slumber party, or taking part in a school-directed camp trip for any child in their care. An agency's substitute care policy is not to be so restrictive that foster children are routinely deprived of these normal life experiences. See Act 116, MCL 722.124.

**R 400.12322 Unusual Incident Policy (CPA Rule)**

- (1) *An agency's unusual incident policy shall at a minimum, include immediate notification to the agency by the foster parent of either of the following incidents:*
  - (a) *When a foster child is missing from a foster home.*
  - (b) *Attempted removal or removal of a foster child from the foster home by any person who is not authorized by the agency.*
- (2) *An agency's unusual incident policy shall at a minimum, include notification to the agency by the foster parent of any of the following incidents within 24 hours of knowledge of the incident:*
  - (a) *A foster child's involvement with law enforcement.*
  - (b) *Any illness or injury that requires hospitalization or emergency medical care of a foster child.*
  - (c) *Pregnancy of a foster child.*
  - (d) *Involvement of law enforcement by anyone in the home pursuant to a criminal investigation.*

**R 400.9414 Unusual incident notification (FH Rule)**

- (1) *A foster parent shall immediately notify the agency of the death of a foster child.*
- (2) *A foster parent shall immediately notify the agency of the removal or attempted removal of a foster child from a foster home by any person not authorized by the agency.*
- (3) *A foster parent shall notify the agency within 24 hours of determining that a foster child is missing.*
- (4) *A foster parent shall notify the agency within 24 hours after the foster parent knows of any of the following:*
  - (a) *Any illness that results in inpatient hospitalization of a foster child.*
  - (b) *Any accident or injury of a foster child that requires medical treatment by a licensed or registered health care person.*
  - (c) *A foster child's involvement with law enforcement authorities.*
  - (d) *Pregnancy of a foster child.*

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(e) *Incidences of child-on-child abuse.*

(f) *Involvement of law enforcement by anyone in the home pursuant to a criminal investigation.*

### Rule Interpretation:

When determining compliance with unusual incident notification, the following are to be considered:

- Has the foster parent contacted the person identified by the agency?
- Was the contact with the agency made using the identified method of contact, i.e. phone/text/email?
- Did the agency provide a contact number that can be reached at all times? What is the plan if no one from the agency is reached?
- Has the agency provided the foster parent with numbers of other agencies/entities that must be contacted? (Numbers should be in compliance with FH R.400.9308 (2)).
  - Police
  - CPS
  - CMH
- Has the agency specified any other actions that must take place, other than contacts being made, for the situations identified in FHR.400.9414?

Time frames for notification may be more restrictive than the rule.

### **R 400.12321 Hazardous Materials (CPA Rule)**

*An agency's hazardous materials policy shall, at a minimum, contain both of the following provisions:*

- (1) *Dangerous and hazardous materials, objects, weapons, chemicals, medication, or equipment that may present a risk to children placed in the foster home shall be stored securely and out of the reach of children, as appropriate for the age and functioning level of the children.*
- (2) *Proper handling of firearms includes the following:*
  - (a) *Storage in a locked metal or solid wood gun safe or trigger-locked and without ammunition in a locked area.*
  - (b) *Storage of ammunition in a separate location.*
  - (c) *Registration of a handgun. Documentation of the registration of the handgun shall be available for review.*

### **R 400.9415 Hazardous material (FH Rule)**

- (1) *A foster parent shall follow the agency's hazardous materials policy.*
- (2) *Dangerous and hazardous materials, objects, weapons, chemicals, medication, or equipment that may present a risk to children placed in the foster home shall be stored securely and out of the reach of children, as appropriate for the age and functioning level of the children.*
- (3) *Firearms are subject to the following conditions:*

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- (a) Stored in a locked metal or solid wood gun safe or*
- (b) Trigger-locked and stored without ammunition in a locked area.*
- (c) Ammunition shall be stored in a separate locked location.*
- (d) Registration of a handgun. Documentation of the registration of the handgun shall be available for review.*

Rule Interpretation:

When determining if storage is sufficient, the following are to be considered:

- Does the home allow for storage that would prevent the child's access as appropriate for their age and development?
  - Note: Appropriate access may vary based on the child.

A variance to Foster Home R 400.9415 may be considered for individuals who have an employment requirement that conflicts with 400.9415(3). The variance request would need to identify the specific employment requirements relevant to the variance request.



**R 400.9416 Foster parent training (FH Rule)**

- (1) Each licensed foster parent shall attend training as required by the agency foster parent training plan, totaling to at least 6 clock hours per year.*
- (2) At least one adult member of the household shall have training in and maintain a current certification in first aid from the American Heart Association or the American Red Cross, or other institution approved by the department. See FOSTER PARENT TRAINING on page 57*

**R 400.9417 Food and nutrition (FH Rule)**

- (1) A foster parent shall provide for the nutritional needs of each foster child in the foster home.*
- (2) A foster parent shall provide a foster child with meals that are nutritious, well-balanced, and of sufficient quantity.*
- (3) A foster parent shall provide a special diet if a foster child has been prescribed a special diet. Only a licensed physician or other health professional under the supervision of a licensed physician may prescribe special diets.*

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- (4) *A foster parent shall permit a foster child to eat with other members of the household.*
- (5) *A foster parent shall serve a foster child the same meals as other members of the household, unless a special diet has been prescribed or unless otherwise dictated by differing nutritional requirements related to the child's age, medical condition, or religious beliefs.*
- (6) *A foster parent shall ensure that refrigeration is used for perishable foods.*
- (7) *A foster parent shall only serve pasteurized milk products to foster children.*

### Rule Interpretation:

- (1) (2) The foster parent is expected to provide nutritious, well-balanced meals for foster children.
  - Foster parent training should sensitize foster parents to foster child issues that may be related to food. Many children entering care will not be used to eating well-balanced meals and may have a difficult time adjusting to a new diet. Some children will hoard food or over-eat as a result of their past experiences.
  - Some children will not want to eat the meals made. They may not be familiar with the foods being served. Food is not to be withheld from children because they do not like or will not eat the meal created. The agency is to help foster parents with food related issues.
  - Foster parents also need to be sensitive to food related issues when fostering children from different cultures or religions. The agency is to make the foster parent aware of any dietary restrictions related to religious beliefs prior to making a placement when those restrictions are known.
- (3) If a prescribed special diet for a foster child is more costly than a routine diet and this cost is a burden for the foster parent, the agency should evaluate whether a higher determination of care rate is appropriate.
- (4) Foster children should eat meals with other members of the household. This does not prevent a foster parent from sending a child away from the table on occasion as a behavior management technique, but food may not be withheld as a discipline technique.
- (5) A special diet for medical reasons may only be prescribed by a physician.

### **R 400.9417 Foster child tasks (FH Rule)**

*A foster child's tasks must be within the child's ability, be reasonable, and be similar to routine tasks expected of other members of the household of similar age and ability.*

### Rule Interpretation:

- Tasks assigned are to be child-specific and covered in the foster parent activities section of the Parent/Agency Service Agreement and in the child's treatment plan.

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- Tasks should be assigned/allowed based on the capabilities and level of functioning of each child. Mowing the lawn and babysitting are common considerations.
- If allowance is given for household chores, the provision of allowance must be consistent with the agency's policy on allowance per FH R 400.9409.
- Foster children must not be the only household members routinely expected to complete chores and other household tasks. Tasks should be similar to the expectations of other children in the home.

### **R 400.9418 Recreation (FH Rule)**

*A foster parent shall provide opportunities for, and encourage a foster child to participate in, a variety of indoor and outdoor recreational activities that are appropriate for the child's age and ability.*

#### Rule Interpretation:

- There must be both indoor and outdoor play space available. If play space is not available at the foster home, the foster parent must clearly identify where children can play and how this alternative will be made accessible on a regular basis.
- Recreational activities such as fishing, water skiing, snowmobiling, snow skiing, should be assessed on an individual basis according to skill level and should include supervision by an adult. Any recreational activity that includes the use of weapons must be approved by the court and the birth parent if rights have not been terminated.
- Foster youth are to be encouraged by foster parents to participate in recreational activities such as school clubs, music, scouts, sports teams, etc. It is expected that nominal fees for such activities should not prevent participation.

### **R 400.9419 Transportation (FH Rule)**

*(1) All transportation shall be done in a safe, responsible manner.*

*(2) A foster parent shall ensure that the transportation of the foster child, foster parents, and members of the household is conducted as required by state laws regarding transportation in a motor vehicle.*

#### Rule Interpretation:

- The agency is to clearly identify expectations regarding transportation and whether or not foster parents are required to have a driver's license and provide foster child transportation.
- Public transportation may be utilized if the foster parent can meet the child's needs using this method of transportation.
- The foster parent must have a valid driver's license and insurance if they will be transporting foster children for the agency in a private vehicle. The agency is to verify driver's licenses and proof of vehicle insurance.

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- If the foster parent arranges or allows the foster child(ren) to be transported by another person or persons, the foster parent must make sure that this person is a safe driver and has the appropriate licensure and insurance as well. It is the foster parent's responsibility to make sure they are only allowing those abiding by the state laws regarding transportation in a motor vehicle to transport foster children.
- All vehicles used to transport foster children must have sufficient seat belts to comply with Michigan law. Foster parents who care for young children must also have a car seat as required by Michigan law. Foster parents should be encouraged to have car seat installation checked by car seat technicians where available.

Note: This rule is not to be cited when a foster parent refuses to provide transportation for foster children for required family visits or appointments. The appropriate rule is Foster Home R 400.9403(a) if the agency has a policy that requires transportation to family visits or appointments.

### **Reporting and Recordkeeping**

#### **R 400.9501 Reporting suspected child abuse or neglect (FH Rule)**

- (1) *A foster parent who has reasonable cause to suspect physical or sexual abuse or neglect of a child shall make a report immediately to the child protective services unit of the local county office of the Department of Health and Human Services.*
- (2) *If the suspected physical or sexual abuse or neglect occurred in the foster home or to a foster child placed in the foster home, then a foster parent shall make a report immediately to both of the following entities:*
  - (a) *The child protective services unit of the local county office of the Department of Health and Human Services.*
  - (b) *The agency.*
- (3) *The foster parent shall provide a written report as required by 1975 PA 238, MCL 722.621 to 722.638.*

#### **Rule Interpretation:**

- The agency is to provide the foster parent with the telephone number of the Children's Protective Services (CPS) central intake.
- If suspected abuse or neglect occurred outside the foster home, the foster parent must notify CPS. If the abuse or neglect occurred in the foster home, or to a child placed in the home, the foster parent must notify the agency in addition to notifying CPS.
- Agency policy should have clear timeframes for the foster parents to complete the required reports. The policy should clearly state how the written report must be made, when the report is to be made, to whom the written report is to

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be submitted, and what the report contents must cover. The agency is to review the requirements of 1975 PA 238 when creating the policy to ensure it complies with legal requirements.

### **R 400.9502 Reporting foster home changes (FH Rule)**

*A foster parent shall report to the agency any significant change in the foster home by the next working day from the time a foster parent knows of a change, including any of the following changes:*

- (a) A change of employment status of a foster parent.*
- (b) Serious illness, injury, or death of a foster parent or a member of the household.*
- (c) Changes in household composition.*
- (d) Arrests and criminal convictions of a foster parent or member of the household.*
- (e) Court-supervised parole or probation of a foster parent or member of the household.*
- (f) Admission to, or release from, a correctional facility, a facility, a hospital, or an institution for the treatment of an emotional, mental, or substance abuse problem of a foster parent or member of the household.*
- (g) Counseling, treatment, or therapy on an outpatient basis for an emotional, mental, or substance abuse problem of a foster parent or member of the household.*
- (h) Any revocation or modification of a driver's license.*
- (i) Any major changes or renovations of the structure of the foster home.*

#### Rule Interpretation:

In addition to items a–i above, the agency policy may identify other “significant changes” that must be reported. Items (b) through (g) that refer to “member of household” include birth children, adopted children and children cared for under guardianship as well as any identified adult household members.

The agency policy is to clearly outline what information is to be reported for each of the subparts of this rule, including in what manner and to whom the information is to be reported.

Any significant change requires the agency to evaluate the impact of the change on the family's functioning, the family's ability to continue providing foster care and compliance with any applicable foster home licensing rules and to document the information in an addendum to the family's home study.

### **R 400.12314 License recommendation (CPA Rule)**

- (1) An agency shall recommend to the department the appropriate licensing action based on facts contained in the foster home evaluation and any special evaluations.*

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*(2) An agency shall document foster home license changes in the foster home record and shall communicate the changes immediately to the department in the manner prescribed by the department.*

### **Changes**

If changes to the license are recommended by the agency as a result of the assessment of reported changes in the foster home, these changes must be conveyed immediately to DCWL via the BCAL-3706 if the change(s) pertains to any of the following:

- The age range of foster children that may be placed
- The capacity (within the legal capacity for the type of license i.e. 1-4 for a foster family home and 5-6 for a foster family group home)
- Service types (adding or removing)
- The gender of the foster children that may be placed (male, female or both)
- The changes are to be indicated in red pen on the BCAL-3706 and submitted to DCWL or completed in MiSACWIS with notification of DCWL by email. The corresponding assessment is to be filed in the agency foster home file or in the appropriate section of MiSACWIS.

If the change involves adding or removing a licensee from the foster home licensee group, a BCAL-3889 for the new licensee group and a CWL-1326CW for each adult household member must be submitted with the BCAL-3706. If an applicant has previously been fingerprinted, they do not need to be fingerprinted again. New applicants must be fingerprinted. The CWL-1326CW that is returned to the agency with the TCN# is to be sent to be matched with the fingerprint results by DCWL. All non-applicant adult members of the household must complete a new CWL-1326CW to be cleared by DCWL. All changes in information are to be made in red ink. A copy of the narrative that assesses the impact of adding a new licensee or deleting a licensee must be submitted with the request for the change or available in MiSACWIS. When adding a new licensee, the agency is to complete a social history on the new licensee, secure references from 3 non-related people for the new licensee along with a medical statement and the CWL-1326CW.

If DCWL previously conducted an ART review on a family member for the current license, a copy of the ART approval letter is to be attached to that person's CWL-1326CW. If the agency is aware of past convictions that are non-specified crimes, a copy of the assessment of that crime is to be submitted. If no ART approval letter or assessment of the conviction is submitted and a criminal conviction shows up on any of the CWL-1326CWs, the information will be returned to the agency for assessment prior to the changes being made.

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The only exception to this process is when there is the death of a licensee in a two licensee foster home and the remaining licensee wants to maintain the license. In this situation, the BCAL-3706 with the changes noted in red ink is to be submitted to DCWL and only needs to be accompanied by a copy of the death certificate or a copy of the obituary from the newspaper or the memorial card from the funeral home. There must still be an assessment of the change in circumstances when going from two licensees to one.

Changes in the licensee group will not change the license number, the terms of the license, the license status or the effective dates on the license.

For address changes on an existing license, follow the same procedure as a change in licensee group. The assessment of the new home does not need to accompany the BCAL-3889 and CWL-1326CW(s), however, it does need to be added to either the paper or MiSACWIS foster home file. (See FH R400.9504)

For questions regarding processing licensing transactions in MiSACWIS please refer to the PROCESSING LICENSING TRANSACTIONS chart or the MiSACWIS Paperwork Flow Table.

### **R 400.9503 License application filing; agency notification (FH Rule)**

- (1) A foster parent shall notify the agency within 5 calendar days after filing an application for an adult foster care family home license, a family child care home certificate of registration, or a group child care home license.*
- (2) If the foster home is licensed concurrently as an adult foster care family home or a child care group home or registered as a family child care home, the foster parent shall notify the agency if there is a change in the terms of the adult foster care or child care license or registration.*

#### Rule Interpretation:

A foster family may be concurrently licensed as an adult foster care family home, however children not related to a member of the household may not be placed in the home after the filing of an adult foster care application.

A foster family may be concurrently licensed as a children's child care home. The total licensed capacity of the foster home, the total licensed capacity of the child care home, and the number of birth, adopted and children cared for under guardianship may not exceed 12 children under the age of 17 (see **FH Rule 400.9401(1)(a)**). If the total number of children will be between 9 and 12, a variance for the child care license is still required from the Division of Child Care Licensing at LARA.

The capacity for the child care license and the foster home license is used in the equation regardless of the number of children currently in care for either license.

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### **R 400.9504 Change of residence; agency notification (FH Rule)**

*A foster parent shall inform the agency of any change of residence and submit an application for licensure at the new address not less than 4 weeks before a move.*

#### Rule Interpretation:

When the family notifies the agency of a move, an application (BCAL-3889) for the new address must be obtained along with a Record Clearance (CWL-1326CW) for each adult member of the household. As with a change in licensee group (See **CPA R 400.12309**) any applicants/licensees who have not been fingerprinted must be fingerprinted and a new CWL-1326CW is required for all other adult members of the household. The agency is to assess the new home for compliance with the applicable Licensing Rules for Foster Family Homes and Foster Family Group Homes immediately. A BCAL-3080 must be completed for the relevant rules and an addendum to the most recent narrative must be completed. A BCAL-3706 must be submitted to DCWL support staff.

\*\*\*For actions in MiSACWIS, see the most current MiSACWIS Paperwork Flow Table.

If DCWL previously conducted an ART review on a family member for the current license, a copy of the ART approval letter is to be attached to that person's CWL-1326CW. If the agency is aware of past convictions that are non-specified crimes, a copy of the assessment of those crimes is to be submitted. If no ART approval letter or assessment of the conviction is submitted and a criminal conviction shows up on any of the CWL-1326CWs, the information will be returned to the agency for assessment prior to the changes being made. Changes in the address will not change the license number, the terms of the license, the status or the effective dates on the license.

When a foster family group home is moving and wishes to remain a group home, the same process is to be followed.

If a family is changing from a family home to a group home or from a group home to a family home, a new enrollment is needed and a new license number will be issued. Changing from a family home license to a group home license requires review by a central office child welfare licensing consultant.

There are circumstances that do not allow the foster parent to provide 4 weeks advance notice of a move, such as a fire. The agency must evaluate any interim residence for compliance with rules and process the new application as quickly as possible. Any move requires an assessment of compliance for all rules related to the home. (Foster Home R 400.9301 through R 400.9310)



**R 400.9505 Confidentiality (FH Rule)**

- (1) *A foster parent shall keep information obtained, and records maintained, by the foster parent regarding a foster child and a foster child's parents and relatives confidential and shall release information only to a person authorized by the agency placing the child in the foster home.*
- (2) *The requirements in subrule (1) of this rule shall not prohibit a foster parent from communicating with any person or organization that has a statutory privilege or any person representing the foster parent in a licensing or legal matter.*

Rule Interpretation:

- A list of persons authorized to have access to information is to be provided by the agency. The foster parent may only release information to those individuals on the list and then only on a “need to know” basis.
- Records are to be safeguarded in a manner that prohibits access by minors and any unauthorized person. Locked storage is recommended.
- The agency should discuss issues regarding electronic media with the foster parent. **Foster families may not post pictures of foster children or information that could identify a child as a foster child on social media or other websites.**
- Persons or organizations who have a statutory privilege include:
  - Children’s Ombudsman.
  - A standing or select committee of either house of the State legislature.
  - Appropriations subcommittee of either house of the State legislature having jurisdiction over children’s protective services matters.
  - Foster Care Review Board
  - A person representing a foster parent in a licensing or legal matter includes an attorney or an advocate obtained for this specific purpose.

**R 400.9506 Record management (FH Rule)**

- (1) *A foster parent shall maintain a record for each foster child in the home.*
- (2) *The record shall contain all of the following current information:*
  - (a) *The child's name and date of birth.*
  - (b) *Any known history of abuse or neglect of the child.*
  - (c) *All known emotional and psychological problems of the child.*
  - (d) *All known behavioral problems of the child.*
  - (e) *Circumstances necessitating placement of the child.*
  - (f) *Any other known information to enable the foster parent to provide a stable, safe, and healthy environment for the foster child and the foster family.*
  - (g) *Date of placement, date of termination of placement, and reasons for termination of placement.*

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- (h) Name, address, and telephone number, including emergency telephone number, of the agency and the agency's social service worker who is currently assigned to the child.*
  - (i) Name, address, and telephone number of the child's physician and dentist.*
  - (j) Written consent authorizing the foster parent to obtain routine, nonsurgical medical care and to authorize emergency medical and surgical treatment.*
  - (k) A report of the child's medical history.*
  - (l) Dates of, and reasons for, medical treatment of the foster child.*
  - (m) Child's behavior management and discipline plan.*
- (3) A foster parent shall store and maintain each record in a manner to prevent unauthorized access.*
- (4) Upon closure of the foster home license, all records provided by the child placing agency shall be returned to the agency.*

### Rule Interpretation:

- A foster parent is required to maintain records on foster children placed in the foster home.
- The information required must be provided to the foster parents by the agency at the time a child is placed. Information not available at the time of placement is to be provided within 7 calendar days of the placement. Some information, such as behavior management and discipline plans, must be provided on an ongoing basis. Other information that will assist the foster parent in providing care and meeting the needs of the child is to be provided as it becomes known.
- It is recommended that foster parents keep child records under lock and key.
- Giving the foster parent a notebook at the time of child placement is one way any agency can assist a foster parent in maintaining child records.
- The rule requires that records provided to the foster parents by the agency be returned to the agency when the foster home closes. It is also recommended that the agency retrieve individual child records when a child leaves the home. Agencies should consider putting this requirement in the agency's foster parent agency agreement.

### **Initial Evaluations, Re-Evaluations and Placement Agreement**

The evaluation of the home to determine compliance with Part 3 of the licensing rules for foster homes and foster family group homes can only be accomplished by conducting a visit to and inspection of the residence. The agency should make an appointment with the applicant/licensee rather than conducting an unannounced inspection.

A minimum of one home visit is required. Certification staff must make as many inspections as are necessary to determine compliance with all licensing rules for foster family homes and foster family group homes for children.

All members of the household must be observed and interviewed. Children too young to speak can be observed in the context of normal family interaction. It is best to speak with the family members both in groups and individually. Individual interviews increase the likelihood that family members will feel free to tell the worker how they really feel about the prospect of having foster children in the home. Group interviews provide the worker with the opportunity to observe family patterns of interaction, etc.

#### **Rules Compliance Record (BCAL-3080)**

The purpose of the Rules Compliance Record is to summarize the findings of the evaluation of the applicant/licensee and their home with regard to rule compliance. The certification worker should explain the purpose of the inspection and indicate that he or she will be using a BCAL-3080 to document the status of rule compliance.

The BCAL-3080 is a checklist with a statement, or several statements, describing each foster home rule. Statements are answered with a checkmark, indicating compliance "C" or non-compliance "N".

On occasion, generally with new applicants, the circumstances do not exist for an assessment of compliance with a particular rule. For example, R400.9202(c) asks you to assess the foster parents' willingness to accept the foster child into the home as a member of the household. If there have been no placements, there is no basis in experience for an assessment of this rule. In cases such as this, the foster family's **intent to comply** is to be evaluated and marked on the form.

If a non-compliance with a rule does not exist, then the rule is to be considered in compliance. Do not write "N/A" with regard to any rule assessment. **All rules are applicable at all times.** Any rule may also be checked "D" for Discussed. Discussions are to be summarized on the final page in the "Summary of findings" section.

### **Placement Specifications**

The ages, gender and number of children for whom the foster family may provide care must be included on the BCAL-3080 in the "Licensing Recommendation" section on the last page.

Indicate the reasons for any limitations on the license. For example, "due to the number of bedrooms and the fact that all of the biological children are girls, only female foster children may be placed at this time."

Include the type of children for whom this family is best suited to provide care, and the type of children for whom this family is not appropriate. Resolve any discrepancies between the types of children desired by the foster parents and the types of children recommended for placement in this section if discussions have prompted changes/compromises in this area.

The BCAL-3080 is to be signed by all applicant(s)/licensee(s), if there is more than one, and the agency certification worker. The applicant(s)/licensee(s) are to be provided with a copy of the signed, completed BCAL-3080.

#### **R 400.12311 Foster parent/agency agreement (CPA Rule)**

- (1) *An agency shall have a written foster parent/agency agreement signed by the foster parent and the agency before initially certifying a foster home for licensure.*
- (2) *The foster parent/agency agreement shall contain all of the following provisions:*
  - (a) *The responsibilities of the agency.*
  - (b) *The services to be provided to foster children and the foster family.*
  - (c) *The responsibilities of the foster family.*
  - (d) *That the foster family has been informed of, and agrees to follow, agency policies and procedures.*
  - (e) *The role of the lawyer guardian ad litem and the court.*
- (3) *An agency shall document review of the foster parent/agency agreement with the foster family at least annually and, when needed, develop a new agreement.*
- (4) *An agency shall give a foster family a copy of the signed current foster parent/agency agreement.*

#### **Rule Interpretation:**

- Both the agency and the foster home applicant/licensee are to follow the written foster parent/agency agreement, as required by Child Placing Agency Rule R400.12303. Written placement agreements must contain all required content per CPA R400.12311.

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- Signatures on the initial placement agreement must predate the original license effective date. Annual reviews of the agreement are to be documented in the foster home file. An agency may choose to document review of the agreement by having the licensees re-sign an agreement when it is reviewed for an annual review or due to changes having been made.
- If an agency does not wish to allow their foster homes to accept private placements, i.e. any placements not supervised by a child placing agency, this must be specified in the agency's Parent-Agency Agreement.

### **R 400.12310 Initial evaluation (CPA Rule)**

- (1) *An agency social service worker shall complete a written initial foster home evaluation before certifying the home for licensure.*
- (2) *The report shall include the dates and places of contacts and persons interviewed or observed.*
- (3) *The report shall be an assessment of all of the following:*
  - (a) *Visits at the residence of the foster home applicants for observations of, and interviews with, each member of the household to determine all of the following:*
    - (i) *Marital and family status and history, including current and past level of family functioning and relationships and any incidents of domestic violence.*
    - (ii) *Educational history and any special skills and interests.*
    - (iii) *Employment history, current financial status, including property and income, money management skills, and outstanding financial obligations.*
    - (iv) *Physical, mental, and emotional health of each member of the household.*
    - (v) *Any history of substance abuse, including alcohol, drugs, or controlled substances by each member of the household and a description of any treatment received.*
    - (vi) *Current substance use, including alcohol, drugs, or controlled substances by each member of the household and a description of any treatment currently being received.*
    - (vii) *Parenting skills and attitudes toward children.*
    - (viii) *Methods of discipline of children.*
    - (ix) *Adjustment and special needs of the applicant's own children.*
    - (x) *Strengths and weaknesses of each member of the household.*
    - (xi) *Experiences with own parents and any history of out-of-home care.*
    - (xii) *Reasons for applying to be a foster family.*
    - (xiii) *Previous licenses or experience in providing child foster care, child day care, or adult foster care.*
    - (xiv) *Willingness to accept a foster child with the child's individual characteristics, needs, and background.*
    - (xv) *Willingness to parent cross-racially or cross-culturally and to create an atmosphere that fosters the racial identity and culture of a foster child.*
    - (xvi) *Willingness and ability to work with birth families and to understand the foster child's attachment to the birth family.*

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- (xvii) An understanding of and willingness to participate in concurrent planning.*
- (xviii) Willingness and ability to give a foster child guidance, love, and affection and accept the child as a member of the household.*
- (xix) Existence of social support system and alternate care providers.*
- (xx) Spirituality or religious beliefs.*
- (b) Previous adoption evaluations or placements.*
- (c) Previous criminal convictions, and substantiated child abuse or neglect investigations or concerns brought to the agency's or department's attention for any member of the household.*
- (d) Three current references from persons not related to the applicants. The agency shall evaluate any negative references.*
- (e) A medical statement for each member of the household that indicates that the member has no known condition which would affect the care of a foster child. The statement shall be signed by a physician, physician's assistant or nurse practitioner within the 12-month period before the initial evaluation.*
- (f) Safety and maintenance of the applicant's house and property, including but not limited to: sufficient beds and sleeping space, pets, guns and other weapons, and water hazards.*
- (g) Assessment of the neighborhood, schools, community and available resources.*
- (h) The age, number, gender, race, ethnic background, and the special characteristics of children preferred by the applicants.*
- (i) Training needs of the family.*
- (4) An agency shall document placement specifications consistent with the information contained in the evaluation. The placement specifications shall include the following:*
  - (a) Age*
  - (b) Gender*
  - (c) Race*
  - (d) Number of children preferred by the family*
  - (e) Characteristics of children best served by the family*
  - (f) Children who may not be placed in the home. The child's racial, ethnic, and cultural identity, heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interests of the child.*
- (5) An agency shall inform the applicant of the department's policies and procedures regarding concurrent planning.*
- (6) An agency shall inform the applicant that a copy of the initial evaluation is available upon request.*

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***R 400.12324 Re-evaluation (CPA Rule)***

- (1) An agency shall conduct an annual on-site visit and complete a written reevaluation of a foster home.*
- (2) The annual reevaluation shall include a determination and assessment of all of the following:*
  - (a) All changes to the factual information contained in the initial evaluation and subsequent renewal evaluations.*
  - (b) Family functioning and interrelationships as determined by observation of, and interviews with, each member of the household and each social service worker who has had children placed in the home during the last licensing period.*
  - (c) Training needs of the family.*
  - (d) Compliance with the licensing rules for foster homes.*
  - (e) Compliance with the agency's written policies and procedures.*
- (3) An agency shall record the dates and places of contacts and persons interviewed or observed as part of a reevaluation.*
- (4) An agency shall document placement specifications consistent with the information contained in the reevaluation. Placement specifications shall include all of the following:*
  - (a) Age.*
  - (b) Gender.*
  - (c) Race.*
  - (d) Number of children preferred by the family.*
  - (e) Characteristics of children best served by the home.*
  - (f) Children who may not be placed in the home. The child's racial, ethnic, and cultural identity, heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interests of the child.*
- (5) An agency shall inform the foster parent of and discuss the agency's policy and procedures regarding concurrent planning.*
- (6) An agency shall complete a licensing record clearance request form on each adult non-licensee member of the household, including foster youth who turn 18 years of age, prior to each renewal and shall assess the results of the record check.*
- (7) An agency shall notify the foster parent that a copy of the reevaluation is available upon request.*
- (8) An agency shall complete a reevaluation and shall make a licensing recommendation to the department at least 15 calendar days before the expiration date of the foster home license.*

NOTE: The agency is to follow their written foster home re-evaluation policy, as is required by CPA R 400.12303.

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**R 400.9207 Foster home reevaluations and special evaluations (FH Rule)**

*A foster parent shall do all of the following:*

- (a) Allow the agency access to the foster home for licensing and foster child supervision purposes.*
- (b) On an ongoing basis, provide all changes to the factual information contained in the initial evaluation and subsequent evaluations.*
- (c) Share information on family functioning and interrelationships.*
- (d) Provide a preference for receiving children in placement, including the characteristics, age, sex, race, ethnic background, and number of children the foster parents would not wish to accept in placement.*

**Reports**

When all necessary information has been gathered and rule compliance assessed and recorded on the BCAL-3080, a written Initial Evaluation (BCAL-3130) or Re-Evaluation (Annual or Renewal) report is to be completed. The report should be a compilation of all the information collected and the assessment of this information including a determination of rule compliance. The report must include a summary of the relationship of the assessed information to the family's ability to foster including the agency's final licensing recommendation.

All Initial Evaluations must be submitted in the format provided by DCWL. The required format for the Initial Home Study outline can be found on-line at: [http://www.michigan.gov/dhs/0,1607,7-124-544\\_27716\\_27720---,00.html](http://www.michigan.gov/dhs/0,1607,7-124-544_27716_27720---,00.html) in the "Forms" section and in MiSACWIS.

All Initial Evaluation or Re-evaluation reports are to be reviewed and approved by the agency Certification Supervisor for content, continuity and compliance with either **CPA R 400.12310** or **CPA R 400.12324** prior to making a licensing recommendation to the Division of Child Welfare Licensing.

The agency is to submit the Initial Evaluation, BCAL-3130, or re-evaluation to DCWL through MiSACWIS, email, or U.S. mail. Local DHHS offices and agencies under contract to DHHS must use MiSACWIS.

For actions in MiSACWIS, see the MiSACWIS Paperwork Flow Table. **NOTE: If the consultant has clarifying questions about the original home study submitted, the agency response (email, WORD document, addendum etc.) must also be uploaded into MiSACWIS.**



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If the recommendation for an ORIGINAL LICENSE is submitted by email or U.S. Mail, the following paperwork must to be sent to DCWL with the recommendation:

- The BCAL-3130, original home study report.
- The BCAL-3889, application.
- A completed CWL-1326CW for each adult member of the household. For all applicants, fingerprints must have been completed and the TCN# indicated on the CWL-1326CW.
- The enrolled BCAL-3706 completely filled out in red ink consistent with the information contained in the home study report, and signed by the worker and the reviewing supervisor.
- If an ART review or variance is necessary it must be submitted with the recommendation for an original license. See ADMINISTRATIVE REVIEW TEAM (ART), VARIANCE

**NOTE:** A recommendation cannot be made to issue an original license with any outstanding rule violations. Corrective action must be completed prior to making the licensing recommendation to issue a new license. In cases where there is an existing rule non-compliance that cannot be corrected, for example, a loft bedroom that does not meet the requirements in R 400.9306 (1)(d), (e), a rule variance must be requested when making a licensing recommendation.

To recommend a RENEWAL LICENSE be issued the following are to be sent to DCWL support staff:

- The BCAL-3706, with signatures and any changes indicated in red ink
- A copy of the BCAL-3889 renewal application.
- A completed CWL-1326CW for each adult member of the household. For all applicants, fingerprints must have been completed and the TCN# indicated on the CWL-1326CW.

A renewal assessment that is due is to be completed concurrently while a special evaluation/complaint is in progress when there are foster children in the home and when there are not foster children in the home. This will not affect the outcome of the special evaluation/complaint, but will allow the license to be renewed if there is general rule compliance so that foster care payments can continue while the special evaluation/complaint is being completed. If there are no foster children in the home, the renewal assessment is to continue. Renewals are to be sent to DCWL no later than 15 days prior to the expiration of the license and no earlier than six weeks. If there is an open investigation the renewal report must note there is an investigation and must include the Renewal/Special Investigation document in the conclusion of the renewal report, found in the Technical Assistance Form binder. The Michigan Administrative Procedures Act

states that upon timely application, a license continues until the department makes a licensing decision. If the agency finds willful and substantial noncompliance during the investigation and is recommending refusal to renew on the license and there is no signed application, the disciplinary action will not be able to be taken as the license will have expired.

(Annual inspections should not be completed until the investigation is completed as no payments are held up due to an annual inspection not being completed timely. A note should be in the file that the annual inspection will be completed when the special evaluation is complete.)

Information regarding the paperwork necessary for the processing of most licensing transactions can be found in the Licensing Transactions Table or the MiSACWIS Paperwork Flow Table.

### **Special Evaluations/Complaints**

#### **R 400.12327 Special Evaluation (CPA Rule)**

- (1) *An agency shall do both of the following when information is received that relates to possible noncompliance with any foster home rule:*
  - (a) *Submit a special investigation record to the department's licensing authority within 5 working days in the manner prescribed by the department.*
  - (b) *Initiate a special evaluation of the foster home as soon as is indicated, based on the information received, but not later than 7 calendar days after receipt of the information (a) Notify the department's licensing authority within 5 working days.*
  - (c) *Conduct a thorough investigation including all necessary collateral contacts.*
  - (d) *Notify all social service workers who have children placed in the home that a special evaluation has been initiated.*
- (2) *An agency shall inform foster parents of all of the following before they are questioned or interviewed regarding a special evaluation:*
  - (a) *That a special evaluation has been initiated.*
  - (b) *A clear description of the allegations.*
  - (c) *That the foster parents have an option to involve a person of their choice in any interviews with them involving the special evaluation if the involvement does not impede the timely completion of the evaluation.*
- (3) *An agency shall complete a special evaluation within 45 calendar days after receipt of the information. If additional time is required, then the agency shall inform the foster parent, in writing, of the basis for the extension and the expected length of the extension. The total time for the completion of the*

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- investigation shall not exceed 90 calendar days without written approval from the chief administrator or his or her designee.*
- (4) *Before completion of the written report required by subrule (6) of this rule, an agency shall provide the foster parent with a verbal summary of the preliminary findings at the conclusion of the evaluation.*
- (5) *Within 15 days of the conclusion of the evaluation, an agency shall complete a written report that includes all of the following:*
- (a) *The date the information was received.*
  - (b) *Identification of the information source, unless anonymous or confidential, as specified in Child Protection Law (CPL), 1975 PA 238, MCL 722.621 to 722.638.*
  - (c) *The allegations.*
  - (d) *Dates and places of contacts, names of persons interviewed, and names of the interviewers. If children are interviewed, their last names shall not be included in the report.*
  - (e) *Findings of fact, based upon the evaluation.*
  - (f) *Conclusions regarding licensing rules compliance or noncompliance based on the findings of fact.*
  - (g) *Any change in the agency's decision regarding the number, sex, age, race, ethnic background, and specific characteristics of children who may be placed that is based upon the documentation contained in the summary and conclusions of the report.*
  - (h) *Recommendations regarding licensing action and any required corrective action.*
- (6) *An agency shall do both of the following:*
- (a) *Provide the foster parent with a copy of the report required by subrule (5) of this rule within 10 calendar days of its completion.*
  - (b) *Inform the foster parent, in writing, that he or she has a right to have his or her written response included as an attachment to the report required by subrule (5) of this rule.*
  - (c) *Provide a copy of the report to any social services worker that has children placed in the home.*
- (7) *If any violations are cited and there is a signed corrective action plan, all social service workers who have children placed in the home shall be notified there is a corrective action plan and what is required of the foster parent in that plan.*

An agency is to follow their written special evaluation policy required by Child Placing Agency Rule R 400.12303.

A special evaluation is a licensing investigation that takes place anytime the agency becomes aware of information that indicates possible rule violation(s) at a foster home. This information can come from any source, in any format. There is no provision to "screen out" or forego an investigation. All information that

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indicates a possible rule violation must be thoroughly investigated for the protection of the children in care and their foster families.

### **Documentation on the BCAL-259**

The certifying agency is to complete Sections I and II of a Special Investigation Record, BCAL-259, and submit to the Division of Child Welfare Licensing within 5 working days of the agency receiving information that relates to possible rule violation. The 5 days begins when the **agency** receives the information, not when the certification staff receives the information.

If the agency receives a special evaluation during the same time a renewal is due and there are foster children in the home, the agency should continue with a concurrent renewal evaluation of the license. If, generally, there is substantial compliance, the license needs to be renewed for payments to continue. If there are no foster children in the home, the renewal application is to be provided to the licensee, but the license should not be renewed until the investigation is complete and the agency has determined there is substantial compliance with licensing rules. Annual inspections should not be completed until the investigation is completed as no payments are held up due to an annual inspection not being completed timely. A note should be in the file that the annual inspection will be completed when the special evaluation is complete.

- The Special Investigation Number is a computer-generated number that is created when the BCAL-259 information is entered into the BITS (Bureau Information Tracking System) data base. Agency workers are to leave this box blank.
- The "Investigation Type" will always be Complaint in the case of a children's foster home complaint.
- "Use Reporter's Name" requires a Yes or No answer. If the source does not ask to be anonymous, do not offer it. Information is much more credible from an identified source
- "Nature of Intake/Reason for Contact" is a brief summary of the allegations. The last name of foster children is not to be included in this information. Briefly describe the alleged incident. Do not generalize so much, however, that the reader is unable to discern what allegedly happened.
- "Alleged Statute and/or Rule Violation" section has specific directions for completion on the back of the BCAL-259 and is to include any rules that might be in non-compliance based on the initial information received.

The agency will receive a computer generated BCAL-259A indicating that the special evaluation intake has been entered into the DCWL database (BITS). The rules noted on the BCAL-259 by the agency will be printed in Section II and Section III of the BCAL-259A.

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At the close of the investigation, Section III on the BCAL-259, including the close date, is to be completed by the agency and returned to the DCWL to close the investigation in BITS. If additional rule violations are found during the course of the investigation, those rule numbers may be added to Section III when the closing BCAL-259 is submitted.

A final BCAL-259 will then be generated and sent to the agency indicating that the investigation has been closed.

### **Investigation Process**

When an agency becomes aware of information that indicates a possible statute/rule or policy violation, agency staff, generally, are to make contact with the foster parents to arrange interview(s).

Interviews with involved parties may be completed at the foster home or at the agency, depending on the nature of the complaint and the person(s) being interviewed. When a visit to the foster home is warranted and the "scene" needs to be inspected in person by agency staff, an appointment should be made with the foster parents, when appropriate. The time frame for going out to the foster home must, however, be based on the nature of the complaint. Giving a foster parent even a few hours of notice before going out to the home is less confrontational than an unannounced visit, as long as no one is in danger and the notice will not compromise the scene or investigations by other parties, such as the police or CPS, by affording time for "clean up" or "coaching".

### **An unscheduled or unannounced visit to a foster home by agency staff may sometimes be necessary to ensure the safety/protection of children.**

When an agency believes that a foster child may be unsupervised, may be experiencing neglect, abuse or exploitation, or if circumstances require immediate entry, unscheduled visits may be conducted at any hour to insure the safety and well-being of that child. A referral to Protective Services Central Intake must be made immediately upon the receipt of any information alleging abuse or neglect. Agency staff may ask to be accompanied by CPS staff or the Police. When CPS or the police are involved, the agency staff should coordinate to complete a joint investigation. The foster parent is not to be notified in advance when there are allegations of child abuse or neglect.

### **Unscheduled visits or supervisory visits that are written into a Corrective Action Plan for monitoring rule compliance/maintenance should be made during normal working hours.**

When making any kind of an unscheduled home visit, supervisors must pre-approve the visit, the time of a visit, the day a visit is to be made and the

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personnel to participate in the visit. When making unscheduled visits, staff are to carry appropriate agency identification.

Foster parents are to be advised prior to the beginning of interview(s) of the option to have a support person present during their interviews. The support person may be a friend or relative, an advocate, or attorney. The support person may not answer questions for the licensee or otherwise impede the progress of the interview. The agency is to clearly explain that information about foster children is confidential and should request that support persons sign an agreement to keep information about foster children and their families confidential.

Child placing agency staff are to interview all persons necessary to make a determination of rule compliance including the Complainant. At a minimum, in most cases, this will include the complainant and all members of the household including all biological and/or adopted children and all foster children.

If new information about additional potential rule non-compliance is discovered while completing activities related to a current investigation, it is **not** necessary to do a separate investigation. The evaluation of compliance for the additional allegations may be handled as a part of the existing investigation, as indicated in the report format.

If including additional allegations will prevent completion of an investigation in a timely manner and they are not directly related to the ongoing investigation, the agency may open a new investigation.

The investigation is to be completed within 45 calendar days of the date the agency learns of the information. The foster parent is to be notified, in writing, if the investigation will go past the 45-day limit. The notice should include an expected date of completion along with the cause of the delay. The completion of the investigation shall not exceed 90 days. If the investigation will not be completed in this time frame, written approval must be obtained from the chief administrator or licensee designee.

At the conclusion of the investigation, before the report is written, the agency is to verbally provide the foster parent with a summary of the findings, including any rule violations, whether a corrective action plan will be required, and the proposed recommendation.

Within 15 days of the conclusion of the evaluation, an agency shall complete a written report. A copy of the written special evaluation report must be sent to the licensee within 10 days of completion. The licensee is to be informed that they

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may submit a written response to the report and that any written response will be included in their foster home record at the agency.

An agency must use the report outline that follows for documenting the special evaluation.

Frequently a child placing agency will have information about investigations and findings of Children's Protective Services (CPS). Reports on foster homes completed by certification staff, including initial home studies, renewal home studies, interim home studies, and special evaluation reports, are public information. Information regarding CPS investigations and findings are confidential and should not be referenced in certification reports. When there is a need to refer to the CPS worker, the report is to indicate that the individual is a DHHS services worker. The role of certification staff is to determine compliance with foster family home licensing rules, not to determine if abuse or neglect occurred. When there is a need to indicate what CPS determined during an investigation, the report is to indicate that the DHHS services worker either agreed or disagreed with the findings of the agency.

Remember, a separate investigation and report must be completed when there is any allegation that there may be a violation of a foster home licensing rule. Any allegation that rises to the level of being assigned for a CPS investigation will have at least one rule that could be in violation and an investigation must be completed. A CPS report may not be substituted for a report completed by a child placing agency of the investigation of compliance with foster home licensing rules.

All reports completed by the certifying agency are to be signed and dated by the person completing the report and the supervisor. Indicating the name of the individual completing the report at the beginning or in some other place does not take the place of a signature at the end of the report.

When a renewal assessment is being completed while a special investigation is in progress, the narrative in the renewal report should indicate that the results of the current special evaluation are pending and the results of the investigation could change the recommendation. (Annual inspections should not be completed until the investigation is completed as no payments are held up due to an annual inspection not being completed timely. A note should be in the file that the annual inspection will be completed when the special evaluation is complete.)

The existence of rule violations always necessitates a signed Corrective Action Plan if the rule violations are correctible and the license is to be continued. Once a Corrective Action Plan has been agreed upon and signed by both the licensee(s) and the agency, the agency is to make a recommendation to DCWL regarding the status of the license. The recommendation may be to continue the

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regular license or the agency may recommend placing the licensee(s) on a provisional license. The recommendation for a provisional license should be based on the violations being serious, but correctible, or repeated.

**Corrective Action Plan**

If rule violations exist, and the agency believes the violations are correctible, the foster parents must enter into a Corrective Action Plan (CAP) with the agency. The CAP is the foster parent's plan to come back into and maintain compliance with the rules in question and must be approved as acceptable by the agency. A CAP is to be developed jointly by the agency certification worker and the foster parent(s).

A CAP must be achievable within six months, but could be of shorter duration. All of the information must be documented in accordance with Corrective Action Plan outline that follows. Be certain that the information in each section is clear and specific regarding involved parties, time frames and actions to be taken, including the documentation required to demonstrate completion of a task. Any activities required need to be measurable to determine if the licensee has complied.



**Special Evaluation Report Format**

SPECIAL EVALUATION REPORT

CHILD PLACING AGENCY NAME

**I. IDENTIFYING INFORMATION**

License Number:  
Investigation Number:  
Complaint Receipt Date:  
Information Source:  
Investigation Initiation Date:  
Licensee Name:  
Address:  
Telephone Number:  
Original License Date:  
License Status:  
Effective Date:  
Expiration Date:  
Licensed Capacity, placement specifications:  
Members of household including foster children (first name, age, and role):

**II. SUMMARY OF ALLEGATIONS**

This should be the same information entered on the BCAL-259.

**III. POTENTIAL RULE OR STATUTE VIOLATIONS**

Identify all rules or sections of the Act by rule name and number or section of the Act that are alleged to be in violation.

**IV. METHODOLOGY**

List dates, types and places of contacts, names of persons interviewed, and names of interviewers. If children are interviewed, their last names are not be included in the report. Include a list of any documents/files reviewed.

**V. DESCRIPTION OF FINDINGS**

Identify the facts uncovered during the investigation related to the alleged violations.

**VI. ADDITIONAL FINDINGS**

Identify any facts uncovered during the investigation that constitute a violation of a rule or section of the act not cited in section III.

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**VII. CONCLUSIONS**

A separate conclusion regarding each rule or section of the Act that is alleged to be in violation must be stated. List the specific rule or section of the Act and indicate "Compliance" or "Violation". Summarize the information from the description of findings section that supports the determination. If any of the cited violations are repeated violations, indicate that this is a repeat violation.

**VIII. CHANGES IN LICENSE TERMS RECOMMENDED**

Any change in the agency's decision regarding the number, gender, age, race, ethnic background, and any specific characteristics of children who may be placed that is based on the documentation contained in findings and conclusions sections of the report is to be entered in this section.

**IX. RECOMMENDATION**

The following choices are to be used for the recommendation on the status of the license:

I recommend that the status of the \_\_\_\_\_ foster home license remains unchanged as no rule violations were cited.

**OR**

Upon receipt of a signed, acceptable corrective action plan, I recommend foster home license remains unchanged **or** issuance of a (1st, 2nd, 3rd) provisional license.

**OR**

I recommend revocation of the \_\_\_\_\_ foster home license.

**OR**

I recommend refusal to renew the \_\_\_\_\_ foster home license.

**X. SIGNATURES**

\_\_\_\_\_  
Name of Certification Worker (printed below signature)  
Telephone Number

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Supervisor (printed below signature)  
Telephone Number

Date: \_\_\_\_\_

**Corrective Action Plan Format**

FOSTER PARENT IDENTIFICATION

NAME:

ADDRESS:

LICENSE NUMBER:

LICENSE EFFECTIVE DATE:

EXPIRATION DATE:

CERTIFICATION WORKER:

1. List rules that are in non-compliance. Identify any ACT 116 or agency policy non-compliances. After each identified non-compliance briefly describe the nature of the non-compliance.
2. Describe the actions to be taken that will bring the licensee back into compliance and identify how compliance will be maintained.
3. Identify, by name, the person(s) who will perform the tasks identified in #2 above.
4. Identify when the tasks will be completed. This date should not be more than six months from the effective date of the corrective action plan.
5. Identify the consequences if the tasks are not completed by the date(s) identified in #4.
6. When and how will the corrective action plan be monitored for compliance? What documentation, if any, will be required to demonstrate compliance?

SIGNATURES:

Licensee (if two people are named on the license both must sign)

Certification Worker

Certification Supervisor

Anyone else who is to participate in any of the tasks outlined in #2.

**Be certain to date the signatures. The corrective action plan is not effective until everyone has signed and dated the document.**

When working with foster parent(s) in developing a CAP, be sure to make it a SMART CAP:

Specific  
Measurable  
Achievable  
Realistic  
Time Limited

**Licensing Recommendation – Disciplinary Actions**

**R 400.12325 License recommendation (CPA Rule)**

- (1) *An agency shall recommend to the department the appropriate licensing action consistent with facts contained in the foster home evaluation and any special evaluations.*
- (2) *An agency shall document foster home license changes in the foster home record and shall communicate the changes immediately to the department in the manner prescribed by the department.*
- (3) *Except for an original license, an agency shall recommend to the department the issuance of a regular license only when both of the following conditions exist:*
  - (a) *All non-compliances relating to the recommendation are correctable.*
  - (b) *A written corrective action plan has been developed. The plan shall be in compliance with all of the following requirements:*
    - (i) *Specify the methods, the persons responsible, and the time frames for correction; methods for ensuring the safety of any children placed in the home; how continuing compliance will be maintained once compliance is achieved; consequences if the corrective action plan is not completed; and what documentation will be required to demonstrate compliance or completion.*
    - (ii) *Require that the corrective action be completed within (6) months of being signed.*
    - (iii) *Be signed and dated by the foster parent and the agency.*
- (4) *Except for an original license, an agency shall recommend to the department the issuance of a provisional license only when both of the following conditions exist:*
  - (a) *The agency complies with subrule (3)(a) and (b) of this rule.*
  - (b) *The foster parent has been informed, in writing, of the facts and the basis for the provisional license.*
- (5) *An agency shall recommend to the department the denial of license issuance, the revocation of a license, or the refusal to renew a license only when both of the following conditions exist:*
  - (a) *The applicant or the foster parent falsifies information or, the applicant or the foster parent willfully and substantially violates the act, 1 or more of the licensing rules for foster homes, or the terms of the license.*
  - (b) *The applicant or the foster parent has been informed, in writing, of the facts and the basis for the recommended action.*
- (6) *An agency shall provide the department with all documentation that details the basis for the agency's recommendation or any requested documentation for a department licensing action.*
- (7) *An agency shall participate in, and present facts at, a foster home licensing administrative hearing to support an agency recommendation or a department licensing action.*

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The agency must make a professional decision regarding licensing recommendations based on the nature and number of the violations along with the agency's knowledge of the foster family. Rule violations translate into a degree of risk to children in care. If the rule violations indicate there is a high risk, the violations may rise to the level of willful and substantial and the recommendation may need to be revocation or refusal to renew.

Things to consider:

- How reliable are the foster parents?
- Will they comply with the conditions in the corrective action plan and maintain rule compliance?
- Will they meet the letter of the corrective action plan but not the spirit?
- Is this the first time there has been a problem/violation or is this the latest in a series of problems/violations?
- Was there a concurrent CPS investigation of the applicant/licensee? If there was and any member of the household was placed on Central Registry as a perpetrator of abuse or neglect, there must be a recommendation for disciplinary action. MCL 722.119(3) prohibits the licensure of any home where a member of the household is listed on Central Registry.

All agency licensing recommendations require a licensing transaction record, BCAL-3706, be submitted to DCWL and entered on the licensing record data base, BITS. See BCAL-3706 – PROCESSING LICENSING TRANSACTIONS.

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### **Recommending a Provisional License Associated with Rule Violations**

A provisional license is valid for six months. When rule violation(s) do not warrant revocation or refusal to renew, but are willful and substantial and are serious enough to warrant more impact on the license than a Corrective Action Plan alone, an agency may want to consider a provisional license. There are no absolute guidelines as to when an agency is to recommend a provisional license.

**NOTE:** *Any provisional license that is a result of rule violations i.e. a 1st, 2nd, 3rd or 4th provisional, will make the foster home ineligible for payments from Title IVE funding for the duration of the provisional license. If there are foster children placed in the home whose payments are generated from Title IVE funding, an alternative funding source will need to be secured. If the agency's decision to place a foster home on a provisional license causes a placement or placements to be disrupted because of funding issues associated with a provisional license, the agency must document how compliance with R 400.12404(7) is maintained. If the rule non-compliances do not indicate that foster children are at risk and should be moved, to disrupt a placement simply for funding issues is **not** recommended.*

If the licensee(s) successfully completes the requirements of their CAP prior to the expiration date of their provisional license, the agency may choose to complete an early re-evaluation of the home and renew to a regular license. This will, in turn, enable Title IVE funds to be re-instated.

A provisional license that is a result of rule non-compliances may be recommended when all of the following conditions are met:

- The licensee is willing to correct the violation, and has submitted an acceptable, written, signed plan to the certifying agency to correct the violation within the time period of the provisional license. (6 months)
- The nature and/or number of violations are such that with an approved corrective action plan in place, the certifying agency can continue to assure that adequate care, safety, protection or supervision are being provided to the foster children.
- The agency believes the violations will be corrected within the 6-month period of the provisional license and that the violations will not reoccur.

A provisional license will not be issued prior to the date the agency and all persons named on the license have signed the corrective action plan. A copy of the signed corrective action plan must be submitted to DCWL along with the BCAL-3706 to have the provisional license entered into the BITS system. The provisional license will be effective the date that the transaction is entered into the BITS system and cannot be backdated.

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### **Four Provisional Licenses Possible**

A provisional license that does not have a number attached to it is an original license. A provisional license that has a number attached to it, i.e. 1<sup>st</sup> provisional, is one that was issued due to rule violations. MCL 722.117 Section 7 of Act 116 (P.A. 1973) states that a provisional license **may not be issued more than 4 times**, which is interpreted to mean not more than four consecutive six month periods. As noted above, it is expected that corrective action will be completed during the period of the first provisional license.

### **First Provisional**

A first provisional license is a license issued to a currently licensed home which is temporarily unable to comply with rules.

### **Second Provisional**

A second provisional license is a license issued immediately following an original provisional or a first provisional if rule violations still exist, or new violation(s) are discovered. A second provisional license may be recommended if the licensee has made significant good faith efforts to come into compliance, but unusual circumstances have delayed completion of corrective action.

It is not appropriate to recommend a second provisional license when the licensee has taken no steps to achieve rule compliance during the six months of the first provisional license. When no activity has occurred to correct the violations, disciplinary licensing action, either revocation or refusal to renew, is appropriate.

If a second provisional license is recommended, a new or revised written corrective action plan is required. Revised corrective action plans must be re-signed and dated by all parties. As noted above, a provisional license will not be issued prior to the date the agency and all persons named on the license have signed the revised corrective action plan. A copy of the signed corrective action plan must be submitted to DCWL along with the BCAL-3706 to be entered into the BITS system.

### **Third Provisional**

A third provisional license is a license issued immediately following a second provisional if rule violations still exist, or new violation(s) are discovered. If a third provisional license is recommended, a new or revised written corrective action plan is required. Revised corrective action plans must be re-signed and dated by all parties.

It is not appropriate to recommend a third provisional license when the licensee has taken no steps to achieve rule compliance during the twelve months of the first and second provisional license. When no activity has occurred to correct the violations, disciplinary licensing action, revocation or refusal to renew is

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appropriate. Discuss this recommendation with your agency's licensing consultant or DCWL central office licensing consultants prior to submitting the recommendation.

**The Director of the Division of Child Welfare Licensing must approve a third provisional license.**

### Fourth Provisional

A fourth provisional license is a license issued immediately following a third provisional if rule violations still exist, or new violation(s) are found.

If a fourth provisional license is recommended, a new or revised written corrective action plan is required. Revised corrective action plans must be re-signed and dated by all parties.

It is not appropriate to recommend a fourth provisional license when the licensee has taken no steps to achieve rule compliance during the eighteen months of the first, second and third provisional license, or if there continues to be a pattern of new rule violations on an ongoing basis. When no activity has occurred to correct the violations, disciplinary licensing action, revocation or refusal to renew is appropriate. Discuss this recommendation with your agency's licensing consultant or DCWL central office licensing consultants prior to submitting the recommendation. A fourth provisional license means the licensee has had at least 18 months to correct cited rule violations or has continue to have new rule violations without making substantial progress on coming into compliance.

**The Director of the Division of Child Welfare Licensing must approve a fourth provisional license.**



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**Recommending a Disciplinary Action**

A disciplinary licensing action is the means by which the Division of Child Welfare Licensing, as authorized by statute, is able to deny a license, modify the contested terms of a license, issue a provisional license, refuse to renew a license or revoke an existing license. The statutory basis for these actions is substantial and willful violation of the Act or the rules. (MCL 722.121(2))

**Substantial Violation**

A *substantial violation* is a violation with the Act, the licensing rules promulgated under the Act, or the terms of the license that jeopardizes the health, safety, care, treatment, maintenance, or supervision of children or adults receiving services or, in the case of an applicant, children or adults who may receive services. (R 400.16001(d))

To prove substantial rule violation the agency certification worker must do BOTH of the following:

1. Document that the applicant or licensee failed to comply with the Act, the licensing rules promulgated under the Act, or the Terms of the license.

**AND**

2. Document ONE of the following:

- The nature of the violation(s) directly endangers the health, safety, care, treatment, maintenance or supervision of children or adults receiving services or, in the case of an applicant, children or adults who may receive services.

**OR**

- The number of violation(s) directly endangers the health, safety, care, treatment, maintenance or supervision of children or adults receiving services or, in the case of an applicant, children or adults who may receive services.

**OR**

- The licensee has repeatedly violated the Act, the applicable licensing rules, or the Terms of the license and therefore the health, safety, care, treatment maintenance or supervision of children or adults receiving services cannot be assured.

**Willful Violation**

A *willful violation* occurs when an applicant or licensee has received a copy of the Act, the licensing rules promulgated under the Act, and the terms of a license and knew or had reason to know that his or her conduct was a violation of the Act, the licensing rules promulgated under the Act, or the terms of the license. (R400.16001(e))

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To prove willful violation the agency certification worker must do BOTH of the following:

- Document that the applicant or licensee received a copy of the Act, the licensing rules promulgated under the Act, and, in the case of a licensee, the terms of the license.

**AND**

- Document that the applicant or licensee failed to comply with the Act, the licensing rules promulgated under the Act, or the terms of the license.

**Recommendation Process**

When recommending disciplinary licensing action, the agency is to send the following items to:

Division of Child Welfare Licensing  
Disciplinary Action Unit  
235 S. Grand, Suite 407  
P.O. Box 30650  
Lansing, MI 48909

1. The white copy of the completed BCAL-3706, signed by the licensing supervisor, coded denial of issuance, refusal to renew, or revocation, as appropriate.
2. A copy of the agency's letter to the licensee notifying the licensee of the proposed recommendation for disciplinary licensing action (see Disciplinary Licensing Action Cover Letter outline below).
3. The BCAL-3889, if the recommendation is denial or refusal to renew.
4. A copy of all written reports and all documentation related to the recommendation for disciplinary licensing action, including the CWL-1326(s) and any attachments when those are the basis for the recommendation. These must support that there is both willful and substantial violation of the Act or the rules. For denial of issuance, the BCAL-3130 must be submitted.
5. Any written response from the applicant/licensee. If such a response is not received until after the initial mailing to DCWL, simply forward the written response when it is received. Do not wait to see if one will be submitted before sending the recommendation packet to DCWL.

**Disciplinary Licensing Action Cover Letter Outline**

*A copy of the written report is to be sent to the applicant/licensee with this cover letter whenever a disciplinary action is being recommended. The letter is to be on agency letterhead.*

DATE

NAME  
ADDRESS  
CITY STATE ZIP

RE: Licensee Name  
License Number

Dear:

A(n) (initial evaluation, renewal evaluation, special evaluation) of your foster home was completed on (date). A copy of the report that summarizes the findings of the (initial evaluation, renewal evaluation, or special evaluation) is attached to this letter. Based on the findings, we are recommending to the Division of Child Welfare Licensing that your foster home license be (denied, revoked, or not be renewed).

If the Division of Child Welfare Licensing supports our recommendation, you will be notified of any right to appeal the decision by the Division Child Welfare Licensing. You have the right to have your written response included as an attachment to the report identified above. Please forward a copy of any written response to (name of certification supervisor) at (agency name and address).

Sincerely,

Signatures and dates

The letter should be signed and dated by the certification worker and supervisor.

Upon receipt of the required documents requesting disciplinary action, the Disciplinary Action Unit (DAU) will review the written reports and documents to determine whether DCWL concurs with the recommended disciplinary licensing action.

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**DCWL Agrees With Agency's Disciplinary Recommendation**

When the Division Child Welfare Licensing agrees with the agency's recommended disciplinary action and feels there is sufficient evidence to support the action, DCWL will notify the applicant/licensee (and the agency supervisor) of the intended licensing action via a Notice of Intent (NOI) sent by certified mail.

The intended licensing action will be pending for 30 days to allow the applicant/licensee the opportunity to respond, in writing, to the recommended disciplinary licensing action, requesting to attend a compliance conference or to request a hearing.

If the Disciplinary Action Unit does not receive a written response from the foster parent(s)/applicant(s) within 30 days, the recommended licensing action will be implemented by DCWL.

The NOI will include a scheduled date and time for a compliance conference, unless the recommended action is denial of issuance. No compliance conference is offered for a denial of issuance.

A compliance conference affords a licensee the opportunity to show compliance with all lawful requirements for retention of the license. The scheduled compliance conference will not be held if the licensee does not respond to the NOI in writing indicating they will attend the scheduled conference.

Representatives of the Disciplinary Action Unit will conduct the conference, with the foster parent(s) and agency representatives in attendance. If compliance cannot be established, the conference may be used to attempt to settle the matter. In the event a settlement cannot be reached, an administrative hearing will be scheduled.

If the applicant/licensee requests a hearing, DCWL will prepare an administrative hearing packet and will request that an administrative hearing be scheduled. The agency will receive a copy of an Administrative Hearing Summary packet and an instructional letter regarding preparation for an administrative hearing which is held in front of an Administrative Law Judge.

The hearing will be attended by a representative of the Disciplinary Action Unit, the applicant/licensee and agency representatives, as well as any witnesses, etc. The Disciplinary Action Unit representative will present DCWL's case, unless the applicant/licensee is represented by an attorney, in which case DCWL's case will be presented by a representative of the Attorney General's office.

Following the hearing, the Administrative Law Judge will submit a proposed decision to the Director of the Department of Health and Human Services. All attendees will also receive a copy of the proposed decision. Either side may

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choose to submit an exception to the DHHS Director regarding the proposed decision.

The final decision rests with the DHHS Director. This final decision may only be appealed to Circuit Court.

### **DCWL Does Not Agree with the Agency's Disciplinary Recommendation**

When the Division of Child Welfare Licensing does not agree with the agency's recommendation, either because there is not enough supporting evidence or because the investigation was not completed in accordance with CPA rule R 400.12316, DCWL will draft a letter to the agency. This letter will:

- Explain why the DCWL does not agree with the agency's recommendation.
- Direct the agency to take an action consistent with the explanation.

A copy of the letter will also be sent to the applicant/licensee.

(See the COMPLAINT Flowchart at the end of the TA Manual)

### **Borrowed Beds**

#### **R 400.9402 Child placement (FH Rule)**

- (1) *A foster parent shall receive a foster child for care only within the approved placement specifications.*
- (2) *A foster parent shall receive a foster child for care only within the terms of the foster home license.*
- (3) *A foster parent shall receive a foster child for care only from the agency that certified the home or from another agency with the prior approval of the agency that certified the home. The agency is to follow their written borrowed foster home policy as required by Child Placing Agency Rule R400.12303.*

A borrowed home is one in which a certifying agency recommends the home for licensure, but another agency uses the home for placement. The agency that uses a home for placement only is defined as the "borrowing agency".

#### **R 400.12326 Borrowed Home (CPA Rule)**

- (1) *Before placing a child in a foster home certified by another agency or tribe, the agency shall have a record containing all of the following documents:*
  - (a) *Prior approval from the certifying agency authorizing the placement of a child in the home.*
  - (b) *Documentation that the foster parent is willing to accept the foster child.*

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- (c) A copy of the current reevaluation with written endorsement by the borrowing agency that the evaluation is acceptable.*
- (d) A copy of the current reevaluation with written endorsement by the borrowing agency that the reevaluation is acceptable.*
- (e) A list of all children currently placed in the home.*
- (f) Documentation that the foster parent has reviewed orientation to the policies of the borrowing agency.*
- (g) A copy of the foster parent/agency agreement signed by the foster parent and the borrowing agency.*
- (h) A copy of the children's foster home license application and the children's foster home license application and the children's foster home licensing transaction record documents from the certifying agency.*
- (i) A copy of all specific evaluation completed during the last 2 years.*
- (2) The borrowing agency is responsible for securing items identified in sub rules (1) (d), (e), (g), (h) and (i) of this rule annually for the duration of the child's placement.*
- (3) The certifying agency is responsible for certification functions, including special evaluations, and shall share all information regarding changes in the home with all agencies that have children in placement in the home.*

When an agency borrows a home from another agency or a tribe, it is required that all of the permissions and information identified in subrule (1) be received prior to the child being placed. Permission to use a borrowed home is only good for the specific placement. If an agency wants to make additional placements into the same home, another agreement and updated information is required.

No CPA has permission to use the homes of another agency without the written prior permission of the certifying agency. This includes a DHHS office placing a child in a home certified by another DHHS office.

The intent of the borrowed home rule is that all of the information identified in subpart (1) should be in the borrowed home file on an ongoing basis to ensure the well-being of all children in the home. If an agency is lending a home to another agency, that agency is to be advised that they are required under subpart (3) to send information on an ongoing basis.

(1)(c) requires written endorsement of the study from the borrowing agency. There must be either a signature or some other indication the borrowing agency accepts the study as written and the endorsement is to be dated. If the borrowing agency does not find the study acceptable, the borrowing agency is

responsible for adding an addendum to the study to correct or add any needed information. The same applies to (1)(d) regarding the reevaluations.

If a foster home is being used as a shelter home, there may be a borrowed bed agreement between the certifying agency and the local DHHS office that is an ongoing agreement. All documents identified for a borrowed home must be shared on a regular basis, i.e. initial home study, renewal and interim home studies, and special evaluations. If a shelter placement is made, the certifying agency must be notified with the information about the child on the next business day after the placement is made.

When a foster home is borrowed by an agency, the certifying agency continues to have responsibility for all certification functions, including renewals and complaint investigations.

### **Transfer of a License/Enrollment**

A transfer is a change of licensing supervision from one certifying agency to another certifying agency.

#### **Basic principles:**

- It's voluntary.
- All three parties have to agree: the sending agency, the accepting agency and the foster parent/applicant.
- It can be done any time except during a pending disciplinary licensing action (denial of issuance, revocation or refusal to renew).
- There is no right to appeal if an agency does not accept a transfer of a license.

#### **Other issues:**

- If a license is transferred during an investigation, the accepting agency is responsible for completing the investigation.
- If a license is transferred while on provisional status due to rule violations, the accepting agency is responsible for assuring that the foster parent complies with any required corrective action plans.
- An agency accepting a transfer may require a foster parent to go through parts of the agency orientation and training to be sure the foster parent understands and agrees to comply with the new agency's policies.
- Transferring a foster home license from one agency to another does not automatically transfer the case of a foster child that is in the home.

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- A new application must be completed (BCAL-3889) for the new agency prior to a transfer taking place.
- The effective date and expiration date of the license does not change when the license transfers to a new agency.
- The agency that currently certifies the license is to send copies of all documents in the file to the agency considering the transfer.

A license or enrollment may be transferred when there is a mutual agreement among the releasing agency, the accepting agency and the foster parents/applicants. The certifying agency considering accepting a transfer is to ask the foster parent(s)/applicant(s) to fill out an application, BCAL-3889, to initiate the transfer.

When a family requests to transfer licensing supervision, it is required that the agency currently holding the license send copies of the following licensing information to the agency considering the transfer, at the request of the new certifying agency:

1. The most recent application for a license.
2. Reference letters.
3. The most recent (and any other relevant) medical statements for all members of the household.
4. Environmental health inspection reports for private water and sewage disposal systems, where applicable.
5. The most recent (and any other relevant) licensing home study reports and the corresponding BCAL-3080, Rules Compliance Record.
6. The most recent (and any other relevant) copy of the BCAL-3706, Licensing Transaction Record.
7. All completed complaint investigation reports and the associated BCAL-259 forms.
8. License Record Clearance Request, CWL-1326CW, and assessments of criminal convictions or protective services reports/substantiations if necessary. Any Administrative Review Team approvals are to be included.
9. Any other information that might assist the agency considering the transfer with making an informed decision.

The agency considering the transfer is to review all of the file information and should make at least one home visit to determine if they will accept the transfer. If the agency considering the transfer decides not to accept a transfer of the license/enrollment, a written response should be sent to the foster family/applicant with a copy to the certifying agency.

A license may be transferred during a special evaluation or when the license is on provisional status. The accepting agency then also accepts responsibility for



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completing the special evaluation or monitoring any corrective action plan for rule compliance.

An enrollment may be transferred in the same manner as an existing license as long as long as all parties are in agreement. As much of the information from the list above as is completed is to be copied to the agency accepting the enrollment transfer.

To complete a transfer, a BCAL-3706, Licensing Transaction Record form is to be sent to the Division of Child Welfare Licensing with the following modifications indicating transfer:

1. The agency accepting the transfer is to request that the supervisor from the releasing agency sign the BCAL-3706 and forward the form to the accepting agency.
2. The agency license number in box 3 and the agency name and address must be changed to reflect the information of the agency accepting the transfer.
3. The supervisor from the accepting agency must also sign the BCAL-3706. The licensing action code in box 5 should be changed to a "5" indicating "transfer".
4. Any additional changes in the placement specifications should also be noted.

The BCAL-3706 is then to be submitted to DCWL for processing. The foster home license number and effective dates do not change.

**A supervisory signature is needed from both the releasing agency and the accepting agency.** Both the releasing and the accepting agency are to sign the same BCAL-3706 in the signature spaces provided.

The accepting agency will know that the transfer of the license/enrollment has been completed when they receive a new BCAL-3706 with their agency information printed on it. The releasing agency receives no such confirmation and may request that the agency accepting the transfer notify them when they receive the new BCAL-3706.

**Re-Enrolling a Closed Enrollment or  
Re-Opening a Closed Foster Home License**

An enrollment never closes in the BITS database unless the enrolling agency takes a specific action to close the enrollment. If an enrollment is closed and an agency wishes to reopen the enrollment, a new BCAL-3889 must be submitted along with new CWL-1326CWs for each adult household member including fingerprint results for applicants and the BCAL-3706. The assigned license number will remain the same. The BCAL-3706 is to be coded as a reopen.

When a license is closed and the family requests that the license be reopened, the same license number may be used or a new number may be assigned, based on the length of time the license has been closed. When the previous license number is used, if the family now resides in a different county, the first two numbers will be changed to reflect the new county of residence but the remainder of the number will remain the same. The agency is to send to DCWL a new BCAL-3889, CWL-1326CW for each adult household member including the fingerprint results for the applicants, the BCAL-3706, and a narrative assessing any changes since the time of closure. A reenrollment is when a family closes during the enrollment process. A reopen is when a family closes their license and wants to be reopened within 12 months of closure. Reopens do not need to be reenrolled.

If a family is requesting their home to be reopened (closed less than 12 months) and there are changes on the Children's Foster Home Licensing Transaction Record that have occurred within the home, the agency is to amend the original assessment and provide those changes to DCWL.

Changes that require more assessment:

- Change of Address
- Change of household composition
  - Divorce
  - Married/Remarried

If the agency completing the reopen is not the original certifying agency, then a new Initial Evaluation must be written.

In these situations, a new BCAL-3889 must be submitted along with new CWL-1326CWs for each adult household member including fingerprint results for applicants and the BCAL-3706. The BCAL-3706 should be coded as a reopen and a change.

If the license has been closed less than 12 months, an agency may make a decision to obtain new references and new medical statements or to require

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specific training classes at the discretion of the agency. This should be carefully evaluated in the context of why the license closed.

If the license has been closed 12 months or more, the agency is to treat the application as a new application and obtain all documents required for an initial license. At enrollment, a new license number will be assigned, but the two license numbers will be linked in the DCWL BITS data base so that history on the licensee is maintained. The updated home study, that will resemble an original home study, must be submitted with the BCAL-3889, CWL-1326CWs for each adult household member including new fingerprint results for applicants/licensees and the BCAL-3706 to request to reopen the license.

A license that has been closed less than a year will be re-opened as a two-year regular license. If the license has been closed longer than a year, the re-open will be an original 6 month provisional license. If the home was closed during their original provisional license, then the home will be reopened as an original provisional license.

If DCWL previously conducted an ART review on a family member for the current license, a copy of the ART approval letter should be attached to that person's CWL-1326CW. If the agency is aware of past convictions that are non-specified crimes, a copy of the assessment of that crime must also be submitted. If no ART approval letter or assessment of the conviction is submitted and a criminal conviction shows up on any of the CWL-1326CWs, the information will be returned to the agency for assessment prior to the license being reopened. If there are new convictions that occurred after the last ART review was completed or convictions that were not known are discovered, these must be addressed.

If a license or application was closed through an administrative closure or a disciplinary action, the license may not be reopened without review by the director of the Division of Child Welfare Licensing.

### **Issuance of a Foster Family Group Home License**

#### **Procedures**

The change from a foster family home to a foster family group home (or vice-versa) requires a new Children's Family Home License Application BCAL-3889 application and enrollment, as it is a new license. When the certifying agency is requesting that a family be licensed as a foster family group home, the agency is to send the following information to the Division of Child Welfare Licensing:

1. Children's Family Home License Application (BCAL-3889) signed by the applicant(s) requesting a group home license.

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2. Original new CWL-1326CW forms must be submitted for each adult member of the household who is not an applicant/licensee.
3. If an active foster family home license exists, a BCAL-3706 for that license must accompany the BCAL-3706 for the group home to initiate closure of the foster family license prior to issuance of the foster family group home license. All recommendations for modification from a foster family home license to a foster family home group license will be reviewed by a central office child welfare licensing consultant prior to the issuance of the group home license.
4. Addendum outlining why the agency is requesting the change in terms.

### Foster Family Group Home as an Original License

Fostering is a difficult, demanding undertaking. An agency should become very familiar with the skills, abilities, and limitations of caregivers before recommending a foster family group home license. While the administrative rules allow a new applicant to be studied for a foster family group home license, it is not recommended unless licensure is being initiated due to relative placements of 5 or 6 children who are already in the home.

### Variance to Capacity in a Foster Family Home or a Foster Family Group Home

Public Act 116 authorizes DCWL to approve a variance to any statute or administrative rule to allow siblings to be placed together or to remain together. If a variance is approved under the provisions of Act 116, more than four children may be placed in a foster family home without changing the capacity of the license or the type of license from a foster family home to a foster family group home. This is a special situation permissible under Act 116.

### **This does not change the requirements for licensing a foster family group home.**

If a certifying agency intends to maintain five or six children in a foster family home, application for a foster family group home license should be made, even when a variance has been granted. These variances are nearly always time-limited and may actually require that the family submit an application for a foster family group home.

## **Variances**

Several terms are commonly used when referring to the variance process including “exemption”, “exception”, and “variance”. These words mean similar things. The term that is to be used in request letters is “variance”.

Variations are reserved for circumstances where the certifying agency or the licensee is confronted with practical difficulties in which compliance with the law or the administrative rule is not possible. A variance is usually time limited. A variance must be requested and approval received prior to the agency taking any action that would not be in compliance with the law or the foster home licensing rule(s) in question.

### **Variance to a Licensing Rule**

#### **R 400.12102 (CPA Rule)**

- (1) *Upon written request of an applicant or agency, the department may grant a variance from an administrative rule if the alternative proposed ensures that the health, care, safety, protection, supervision, and needed services of children are maintained.*
- (2) *The decision of the department, including the conditions for which the variance is granted, shall be entered upon the records of the department and a signed copy shall be sent to the applicant or agency. The variance may be time-limited or may remain in effect for as long as the agency continues to ensure that the health, care, safety, protection, supervision, and needed services to children are maintained.*

#### **R 400.9102 (FH Rule)**

- (1) *The department may grant a variance from an administrative rule if all of the following provisions are satisfied:*
  - (a) *The agency and the foster parent have reviewed and agreed with the request.*
  - (b) *The agency requests the variance, in writing, from the department.*
  - (c) *The proposed variance from the rule assures that the health, care, safety, protection, and supervision of a foster child are maintained.*
- (2) *The decision of the department, including the conditions for which the variance is granted, shall be entered upon the records of the department and a signed copy shall be sent to the agency and the foster parent. The variance may be time limited or may remain in effect as long as the Foster parent continues to assure that the health, care, safety, protection, and supervision of foster children are maintained.*

A variance may be requested to any licensing rule for foster family and foster family group homes for children.

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### Procedure for Requesting Rule Variances:

A written request for a variance to a foster family/group home licensing rule is to be prepared. A request for a variance will not be considered without a written request.

If the variance is being requested at the time of initial licensure, the completed home study must also accompany the variance request. The request for a variance is to be based on the fact that all other rules are in compliance. This cannot be determined if the initial home study is not complete.

The letter requesting a variance must contain the following and be written on agency letterhead including the agency address:

- Name, address, license number of the foster home or enrollment.
- Identification of the foster home rule or rules for which the variance is needed.
- A description of the circumstances necessitating the variance to the rule(s).
- A description of the alternative to the requirements of the rule(s). The alternative must assure that the health, care, safety, protection, and supervision of all current and proposed members of the household will be met, including birth, adopted, relative, and foster children.
- A brief description of all household members and children in the home, including the family's biological and adopted children and children through guardianship in addition to any foster children already placed in the home or waiting to be placed in the home. The description is to include the child/household member's first name, date of birth, date of placement (if applicable), and special needs and behaviors and permanency plan.
- Sleeping arrangements for all of the members of the household, including foster children, including prospective foster children, including bedroom square footage and types of beds. This is required regardless of the rule for which a variance is being requested. If the variance is related to bedrooms, a description of the current situation and the proposed situation are to be included.
- The length of time for which the variance is needed.
- The letter must contain a supervisory signature.

The request is to be forwarded to the Division of Child Welfare Licensing:

Division of Child Welfare Licensing  
235 S. Grand, Suite 407  
P.O. Box 30650  
Lansing, MI 48909-0850

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The DCWL letter that transmits the decision to approve or deny the variance will contain the following:

- A brief summary of the request.
- Identification of the rule in question.
- A statement that approves or denies the variance.
- The basis or criteria for making the decision.
- The duration of the variance.
- Additional conditions that must be met in order for the request to be approved, if any.

Copies of the letter will be sent to the requesting agency, the licensee(s)/applicant(s) and licensing consultant assigned to the agency requesting the variance. A copy will also be placed in the variance log in central office. The agency will be directed to place a copy in the foster home licensing file.

The BCAL-3080, Rules Compliance Record, is to indicate compliance when a variance has been granted and the licensee complies with all additional conditions identified in the approval letter.

During an agency onsite licensing investigation, the licensing consultant assigned to the agency may request to review the files where a variance has been granted to confirm that the agency and foster family have adhered to any conditions listed as necessary for approval.

### **Variance to the Law**

**A variance to the law cannot be granted unless the law contains a specific provision for a variance or exemption.**

There are currently four specific exemptions or variances allowed to Act 116:

1. Placing an adult in a children's foster home.
2. Placing a youth 16 or 17 years old in an adult foster care facility.
3. Placing a youth less than 16 years old in an adult foster care facility.
4. Placing more than 4 children in a foster family home or more than 6 children in a foster family group home.

1. **Placing an adult in a children's foster home MCL 722.115 (7)**

*The director of the department, or his or her designee, may authorize, on an exception basis, a licensed child placing agency or an approved governmental unit to place an adult in a foster family home, if a licensed child placing agency or approved governmental unit certifies to the department all of the following:*

- (a) *The adult is a person with a developmental disability as defined by section 600 of the mental health code...or a person who is otherwise*

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*neurologically handicapped and the person is also physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.*

- (b) The placement is in the best interest of the adult and will not adversely affect the interest of the foster child or children residing in the foster family home.*
- (c) The identified needs of the adult can be met by the foster family home.*
- (d) The adult will be compatible with other residents of the foster family home.*
- (e) The child placing agency or approved governmental unit will periodically reevaluate the placement of an adult under this subsection to determine that the criteria for placement ...continue to be met and document that the adult is receiving care consistent with the administrative rules for a child placing agency.*

**NOTE:** The statute only allows the department to authorize the placement of an adult into a foster family home. There is no statutory authority to authorize placement of an adult into a foster family group home.

### Procedure:

A request for authorization to place an adult in a foster family home must be submitted in writing to the Director of the Division of Child Welfare Licensing.

The request must be signed by a supervisor from the child placing agency or approved governmental unit. If the foster family home is certified by one agency and another child placing agency makes the request for placement of the adult, supervisors from both agencies must sign the request.

The request must contain the following information:

- The name, license number, license capacity, and license status of the foster family home.
- The name, date of birth, and sex of the adult the agency wishes to place.
- Documentation of the adult's developmental disability or neurological handicap and medical documentation that the individual is physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.
- Rationale as to why placement in a children's foster home is more appropriate than placement in an adult foster home.
- Verification that the placement of the adult will not adversely affect the interest of the foster child or children in placement in the home.
- Verification that the foster family home can meet the needs of the adult.
- Verification that other residents of the foster family home will be compatible with the adult.
- The plan for supervision and reevaluation that the criteria outlined in the law continue to be met.



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The written request will be reviewed. A letter either recommending approval or denial of the request will be prepared and submitted to the Director of the Division of Child Welfare Licensing. The director makes the final decision. Placement of the adult is not to be made without written approval of the variance request from the Director of DCWL.

- 2 Placing a youth 16 or 17 years old in adult foster care MCL 722.115 (6)  
*The Department may authorize a licensed child placing agency or an approved governmental unit to place a child who is 16 or 17 years old in an adult foster care family home or and adult foster care small group home licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, as amended, being sections 400.701 to 400.737 of the Michigan Compiled Laws, if a licensed child placing agency or approved governmental unit retains supervisory responsibility for the child and certifies to the department all of the following:*
- (a) The placement is in the best interests of the child.*
  - (b) The needs of the child can be adequately met by the adult foster care family home or small group home.*
  - (c) The child will be compatible with other residents of the adult foster care family home or small group home.*
  - (d) That the child placing agency or approved governmental unit will periodically reevaluate the placement of an individual under this subsection to determine that the criteria for placement in subdivision (a) through (c) continue to be met.*

Procedure:

A request for authorization to place a 16 or 17 year old in adult foster care facility must be submitted in writing to the Director of the Division of Child Welfare Licensing. The request must be signed by a supervisor from the child placing agency or approved governmental unit. The request must contain the following information:

- Identification of the specific adult foster care facility the agency wishes to place the youth in. The name of the provider, the name of the facility and the license number must be included.
- Information about the youth the agency is recommending for placement including name, date of birth, and the specific circumstances that make adult foster care more appropriate than children's foster care.
- The plan for supervision and reevaluation that the criteria outlined in the law continue to be met. This is required even if the child is not a part of the child welfare system. If care is being paid for by an insurance company or other social services agency, they must contract with a licensed child placing agency to supervise the placement until the youth turns 18.

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The written request will be reviewed. After consultation with the Adult Foster Care Licensing (AFC) Consultant, a letter either recommending approval or denial of the request will be prepared and submitted to the Director of the Division of Child Welfare Licensing. The director makes the final decision. Placement of the youth is not to be made without written approval of the variance request from the Director of DCWL.

**NOTE:** The statute only allows the Division of Child Welfare Licensing to authorize placement of a child 16 or 17 years of age into a family or small or medium size adult foster care facility. There is no statutory authority to authorize placement of a 16 or 17 year old child into a large adult foster care facility.

**3 Placing a youth less than 16 years old in an adult foster care facility MCL 722.115 (8)**

*The director of the department, or his or her designee, may authorize, on an exception basis, a licensed child placing agency or an approved governmental agency to place a child in an adult foster care family home or an adult foster care small group home...if the licensed child placing agency or approved governmental unit certifies to the department all of the following:*

- (a) The placement is in the best interest of the child.*
- (b) The placement has the concurrence of the parent or guardian of the child.*
- (c) The identified needs of the child can be met adequately by the adult foster care family home or small group home.*
- (d) The psychosocial and clinical needs of the child are compatible with those of the other residents of the adult foster care family home or small group home.*
- (e) The clinical treatment of the child's condition is similar to that of the other residents of the adult foster care family home or small group home.*
- (f) The child's cognitive level is consistent with the cognitive level of other residents of the adult foster care family home or small group home.*
- (g) The child is neurologically disabled and is also physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.*
- (h) The child placing agency or approved governmental unit will periodically reevaluate the placement of a child under this subsection to determine that the criteria for placement in subdivision (a) to (g) continue to be met.*

**Procedure:**

A request for authorization to place a youth who is less than 16 years old in adult foster care must be submitted in writing to the Director of the Division of Child Welfare Licensing. The request must be signed by a supervisor from the child placing agency or approved governmental unit. The request must contain the following information:

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Identification of the specific adult foster care facility the agency wishes to place the youth in. The name of the provider, the name of the facility and the license number must be included.

- Information about the child including:
  - Name, date of birth, gender
  - A description of the child's psychosocial and clinical needs.
  - The prescribed clinical treatment for the child's condition.
  - A description of the child's cognitive level.
  - A description of the child's developmental disability, neurological handicap and medical documentation that the child is physically limited to such a degree as to require physical assistance with mobility and activities of daily living.
  - An assessment of the child's immediate and long term need for foster care.
- Verification that the parent or guardian of the child concurs with placement in the specified home.
- Verification that the psychosocial and clinical needs of the child are compatible with those of all other residents in the specified home.
- Verification that the clinical treatment of the child's condition is similar to that of all other residents in the specified home.
- Verification that the child's cognitive level is consistent with the cognitive level of all other residents in the specified home.
- Rationale as to why placement in the specified adult foster care home is more appropriate than placement into a children's foster home.
- The plan for supervision and reevaluation that the criteria outlined in the law continue to be met.

The written request will be reviewed. After consultation with the Adult Foster Care Licensing (AFC) Consultant, a letter either recommending approval or denial of the request will be prepared and submitted to the Director of the Division of Child Welfare Licensing. The director makes the final decision. Placement of the youth is not to be made without written approval of the variance request from the Director of DCWL.

**NOTE:** The statute only allows the Division of Child Welfare Licensing to authorize placement of a child younger than 16 into a family or small size adult foster care facility. There is no statutory authority to authorize placement of a child younger than 16 into a large adult foster care facility.

#### 4 Placing more than 4 children in a foster family home or more than 6 children in a foster family group home MCL 722.118b

*(1) Upon the recommendation of a local foster care review board under section 7a of 1984 PA 442. MCL 722.137, or a child placing agency, the department may grant a variance to 1 or more licensing rules or statutes*

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*regulating foster family homes or foster family group homes to allow the child and 1 or more siblings to remain or be placed together. If the department determines that such a placement would be in the child's best interest and that the variance from particular licensing rules or statutes would not jeopardize the health or safety of a child residing in the foster family home or foster family group home, the department may grant the variance.*

*(2) The department's grant of a variance does not change a private home's licensure status.*

**Keeping siblings together or reuniting siblings is the only basis for the variance under this section of the Act. It does not include keeping a youth and their own child together.**

MCL 722.111(f) (i) defines a foster family home as having a capacity of "1 but not more than 4 minor children" and MCL 722.111(f) (ii) defines a foster family group home as having a capacity of "more than 4 but fewer than 7 minor children". This part of the Act means that the placement of more than 4 minor children in a foster family home or 7 or more minor children in a foster family group home may be approved to keep siblings together or to reunite siblings. Such an approval for placement does not change the license type or the capacity of the foster home.

Under the conditions described, after DCWL approves a variance, an agency may place the children identified in the variance request into the family home without obtaining a foster family group home license, even though there will be more than 4 foster children in a foster family home. Generally, the granting of a variance for more than 4 children in a foster family home will be contingent upon the licensee applying for a group home license. Likewise, after DCWL approves a variance, an agency could place 7 or more foster children, as identified in the specific variance request, into a foster family group home.

The Act authorizes either a child placing agency or a Foster Care Review Board to recommend a variance. A child placing agency requesting a variance to the license capacity is to prepare the request for a variance to Rule 400.9402(2).

### **R 400.9402 Child placement (FH Rule)**

*(2) A foster parent shall receive a foster child for care only within the terms of the foster home license.*

If the recommendation comes from a Foster Care Review Board (FCRB), the child placing agency that certifies the home will be contacted by DCWL and asked to either support the recommendation in writing or provide information that indicates why approval of the variance is inappropriate. A copy of the letter to the certifying agency will be forwarded to the requesting Foster Care Review Board

with a letter indicating that a decision regarding the variance request will not be made until additional information is received from the certifying agency. All information received from the Foster Care Review Board and the certifying agency will be reviewed. A copy of the decision of the Director of DCWL regarding the granting or denying of the variance request will be sent to both the Foster Care Review Board and the certifying agency.

### **Variance Denied**

There is no provision for appealing the denial of a variance request. The licensee may appeal a recommendation for adverse action that arises from the denial of the variance.

## **Foster Home Record**

### **R 400.12328 Foster home record (CPA Rule)**

- (1) *An agency shall maintain a foster home record for each foster home.*
- (2) *The record shall contain all of the following information:*
  - (a) *All documents pertaining to certification of the home.*
  - (b) *Any special evaluation reports.*
  - (c) *Placement agreements between a foster parent and the agency.*
  - (d) *A placement list of all children placed in the foster home, including all of the following information about each child:*
    - (i) *Name, age, gender, and race of the child.*
    - (ii) *Date of placement.*
    - (iii) *Date of, and reasons for, a child's removal from the foster home.*
  - (e) *Any written response from a foster parent, as provided by R 400.12317(6)(b).*
- (3) *An agency shall make copies of a record available to the applicant or licensee upon request, except for the following items:*
  - (a) *Pending evaluation reports and documents.*
  - (b) *Records of privileged communication.*
  - (c) *Criminal records, police reports, child protective services information, and social security numbers from any source.*
- (4) *An agency shall maintain records for not less than 7 years after closure.*

The agency is to follow their written foster home record policy, which is required by Child Placing Agency Rule R 400.12303.

The agency is to follow their written foster home records management policy, which is required by Child Placing Agency Rule R 400.12202. The minimum content of the policy is contained in Child Placing Agency Rule R 400.12213. Foster home records are to contain all of the following:

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All documents pertaining to certification of the home.

- Proof of Orientation Attendance.
- Proof of Willingness to Provide Care for Children Served by Agency.
- Proof of Receipt of Agency Policies.
- Foster Parent Training Plan and Foster Parent Training Record.
- Foster Home License Applications, BCAL-3889
- Licensing Record Clearance Requests, CWL-1326CW, for all adults.
- Children's Foster Home Rules Compliance Record, BCAL-3080.
- Children's Foster Home Licensing Transaction Record, BCAL-3706.
- Environmental Health Inspection Report – BCAL-1787A and BCAL-1788 – if necessary.
- Zoning information including completed Summary of Findings: Excessive Concentration, if a foster family group home.
- Medical Statements for each member of the household.
- Foster Home Reference documentation.
- Placement agreements between a foster parent and the agency.
- Initial and all annual re-evaluations.
- Special Investigation Record, BCAL-259, special evaluation reports and Corrective Action Plans-if necessary.
- A placement list of all children placed in the foster home.
- Any written response from a foster parent, as provided by R400.12316(6)(b).
- Any variance letters and responses.
- Additional documentation as required by agency certification policy.

Agencies should maintain the original copies of documents in the agency file. Any requests for information from the foster home licensing file should be copied and the copy sent except at the time of enrollment when the original application and CWL-1326CW is submitted to central office.

Old Law Enforcement Information Network (LEIN) attachments to CWL-1326CW's are NOT to be maintained in the licensing file. If there are old LEIN documents in the file, they are to be immediately removed and put through a cross cut shredder. Currently, a copy of a printout from ICHAT is sent to the agency to verify a conviction for adult members of the household. Copies of MI State Police and Fingerprint results are attached to all CWL-1326CWs returned to an agency for each applicant/licensee. These attachments are to be kept in a secure place separate from the licensing file. Fingerprint documents may not be uploaded into MiSACWIS. Information included on these attachments is to be included in the written evaluation. One copy of any attachment sent to the agency should be sent to DCWL along with the CWL-1326CW and the BCAL-3706 when an agency is requesting a licensing action.

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## CHILDREN'S FOSTER HOME LICENSING TECHNICAL ASSISTANCE (TA) MANUAL

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Files may be kept in either a paper format or in an electronic format. The child placing agency is responsible for ensuring records are secured and stored in a manner that ensures confidentiality and prevents unauthorized access and assures records are protected against damage and destruction,

### **Information on Foster Home Files**

As indicated in part (3) of the rule, an agency is to make available to a licensee or applicant the information in their file if requested, except for the confidential information as indicated. If the licensee/applicant requests an actual copy of this information, the agency may charge a reasonable copying fee.

Additionally, if one child placing agency contacts another child placing agency to request file information to facilitate a transfer of license, or enrollment for a new license for a family that was previously licensed, or to review the file of a family previously certified by the agency, the agency receiving the request should copy the information and provide it to the requesting agency. If the family has made application with the new agency, the application includes a release of information and no additional releases are necessary. Do not forward originals.

Anyone requesting file information, other than another child placing agency, the licensee or applicant is to be referred to the Freedom of Information Act (FOIA). They will need to submit a written request to Lansing for the information.

Requests may be submitted to the following email box:

[MDHHS\\_FOIA\\_Lit@michigan.gov](mailto:MDHHS_FOIA_Lit@michigan.gov) If a child placing agency receives a direct request for information under FOIA, the request is to be immediately scanned and sent to the email address noted above. When foster home file information is requested via FOIA, the representative from the Legal Services/FOIA office will contact the associated certifying agency and request the information from the agency file to be sent to Lansing.

The agency needs to respond to such a request immediately. FOIA statutes contain very clear time frames for response. The FOIA request has a 5-day time restriction that could result in a fine if not met. No information is to be redacted from the certification file prior to forwarding the file to Lansing. FOIA information is to be sent to:

DHHS Legal Services  
FOIA Officer  
235 S. Grand, 2<sup>nd</sup> floor  
PO Box 30037  
Lansing, MI 48909

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## CHILDREN'S FOSTER HOME LICENSING TECHNICAL ASSISTANCE (TA) MANUAL

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### Types of Care

Act 116 defines four types of family home care:

- Foster family home
- Foster family group home
- Family childcare home
- Group childcare home

MCL 722.111(1)(f) states:

*“Private home means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group day care home, or a family day care home, as follows:*

- (i) Foster family home is a private home in which 1 but not more than 4 minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code, chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws, are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian or legal custodian.*
- (ii) Foster family group home means a private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to chapter X of Act No. 288 of the Public Acts of 1939 are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian or legal custodian.”*

It is Foster Care when 24-hour care is provided in a private home for 4 or more days a week for 2 or more consecutive weeks by individuals who are not related to the child(ren) by blood, marriage, or adoption, and who are not the legal guardians or legal custodians of the child(ren). A license is required to provide foster care. If ongoing care is being provided, a “power of attorney” given by the legal caretaker does not alter the need to be licensed as a foster home.

The reference to specific time periods of care in the above noted sections of the statute, allows parents to place their own children in unlicensed, unrelated homes for periods of 4 or more days per week for 2 consecutive weeks. This means that a child could be in care with a non-related caregiver for 7 days the first week and up to 3 days the second week, for a total of 10 consecutive days in a period of 14 consecutive days without a license being required. On the 11th day of consecutive care, the home must be licensed or the child in care must be moved.



## **Placement Overview**

### **R 400.12404(1) (CPA Rule)**

*An agency shall only place a child with an adult who is legally related to the child, is a legal custodian or in a licensed foster home, except as permitted in R400.12709.*

Child placing agencies are prohibited from placing children in unlicensed homes for any reason for any period of time except as noted in the Adoption Placement Selection Rule.

Families that provide ongoing care, regular or continuous emergency shelter care, or intermittent care for child placing agencies must be licensed. There is no legally recognized entity called "fictive kin". Act 116 provides a definition for "related" and "legal custodian", (see below). Anyone who is not related, a legal custodian or a legal guardian, i.e. any unrelated care provider, must be licensed before any staff person from a child-placing agency may place children in that home.

### **Relative/Legal Guardian, Legal Custodian Placement MCL 722.111(1) (j)**

*"Legal Custodian" means an individual who is at least 18 years of age in whose care a minor child remains or is placed after a court makes a finding under section 13a(5) of chapter XIIA of the probate code of 1939, 1939 PA 288 MCL 712A.13a.*

### **MCL 722.111(1)(s)**

*"Related" means a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin, great aunt, great uncle, or step-grandparent related by marriage, blood, or adoption.*

Out of home care of children by adults who are related to them or are legal custodians of them, as stipulated in the above section of Act 116, or who are the legal guardians of an unrelated child, is not within the jurisdiction of Act 116. Child placing agencies may choose to certify for licensure the individual caring for related foster children in order to provide payments and services to the child and caregiver. Compliance with Act 116 and all of the Foster Family/Group Home Rules must be maintained when a license is recommended and subsequently issued.

A legal guardian, even if licensed, is not eligible for foster care payments. The guardianship would have to be rescinded and the child made a foster child placed in a licensed foster home to become eligible for foster care payments.

### **Concurrent Licenses**

**R 400.9206(b)(xv) (FH Rule)**

*A foster home applicant shall do all of the following:*

*(b) Truthfully assist the agency in determining all of the following:*

*(xv) Previous licenses in providing child foster care, child day care, or adult foster care.*

**R 400.9503 (FH Rule)**

*(1) A foster parent shall notify the agency within 5 calendar days after filing an application for an adult foster care family home license, a family child care home certificate of registration, or a group child care home license.*

*(2) If the foster home is licensed concurrently as an adult foster care family home or a child care group home or registered as a family child care home, the foster parent shall notify the agency if there is a change in the terms of the adult foster care or child care license.*

A concurrent license exists when a person is simultaneously licensed to provide child care (CDC) or adult foster care (AFC) and foster care for children (CFC).

Concurrent licenses are issued only if a person is in compliance with the administrative rules relating to each type of license and if operation under one license does not jeopardize operation under the other.

While each license is handled and evaluated independently of the other, it is essential that records be shared. Licensing workers/consultants should keep each other informed about any unusual events in the home.

A violation of rules relating to one license does not necessarily jeopardize the other license; however, when the rule(s) are similar or identical for both types of licenses, the violation(s) may place both licenses in jeopardy.

### **Concurrent AFC and Child Foster Home Licenses**

*MCL 722.111*

*(1) Minor child means any of the following:*

*(i) A person less than 18 years of age.*

*(iii) A person who is a resident in ... a foster family home or foster family group home; who becomes 18 years of age while residing in the ... home; and who continues residing in the ... home to receive care, maintenance, training, and supervision. This subparagraph applies only if the number of those residents who become 18 years of age do not exceed the following:*

*(a) Two, if the total number of residents is 10 or fewer.*

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### MCL 722.111a(1)

*A private residence licensed as a foster family home or foster family group home may be concurrently licensed as an adult foster care family home. Additional children not related to a resident of the foster family home or foster family group home shall not be received in the foster family home or foster family group home after the filing of an application for an adult foster care family home license.*

When a foster family is caring for youth who become 18 years old and continue to live in the home to receive care and supervision, the youth can continue to be counted as “minors” for purposes of licensing, as long as the number of such youth does not exceed two. When a third youth is going to become 18 and the family wishes to continue to provide care, the family needs to apply for and obtain an AFC family home license. If a youth turns 18 while in care and is no longer a court ward or not in need of care and supervision due to physical or emotional problems, the youth’s presence in the home must be assessed as a “member of the household”.

Once an application for an AFC license is filed, the family may no longer receive additional children for placement if the child being placed is not related to a resident of the foster family home. Additional child placements could be made, if the placement is within the licensed capacity of the home and the child is related to someone in the home, either a household member or another child or adult already placed into the home.

The foster home that is concurrently licensed for the care of adults and children may continue to renew both licenses as long as the requirements for both licenses continue to be met.

A home that is originally licensed for AFC may not subsequently apply to be concurrently licensed for Children’s Foster Care.

### **Concurrent Child Care and Child Foster Care Licenses**

When a home is licensed as a family day care home and is seeking a foster family home license, it is required that the CDC licensing consultant responsible for the family day care license be contacted. The purpose is to obtain and share information concerning the family.

### **R 400.9401 Child capacity; living arrangement (FH Rule)**

**(1) Both of the following apply to the capacity of a foster home:**

- (a) Not more than 8 children under 17 years of age, including children of the foster parents, may live in or receive foster care in a foster care home at any given time**
- (b) If a foster home is concurrently licensed for child care, the total number of children under 17 years of age, including children of the foster parents, who**

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*live in or receive care in the foster home, shelly not exceed 12. The foster home shall comply with all applicable licensing rules for both foster homes and child care homes.*

The foster home rule was amended in January 2015 to allow for an individual to be concurrently licensed as both a foster home and a child care home with a maximum capacity of 12 children, including birth, adopted, relative, and guardian children and counting the capacity of both licenses. The child care rule was not amended and remains at 8 total children. If there will be more than 8 children total, a variance must be obtained from the Child Care Licensing Division at LARA. Consultation with the child care licensing consultant should occur to obtain this variance.

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**Procedures for Ordering Forms and Publications**

Agencies may request the following required publications from:

DHHS - Forms Management  
235 S. Grand, Suite 203  
Lansing, MI 48909

**DHHS Publications**

DHHS Pub. 3 - Child Protection Law  
DHHS Pub 435 - The Foster Child

Agencies may request the following required forms and publications from:

Division of Child Welfare Licensing  
235 S. Grand, Suite 407  
PO Box 30650  
Lansing, MI 48909

**Publications**

BCAL Pub. 10 - Licensing Rules for Foster Family Homes & Foster Family  
Group Homes of Children  
BCAL Pub. 11 - Licensing Rules for Child Placing Agencies  
BCAL Pub. 14 - Act No. 116 of the Public Acts of 1973, as Amended  
BCAL Pub. 673 -Good Moral Character  
4829-9424 - Children's Ombudsman

**Forms**

BCAL-3080 Children's Foster Home Rules Compliance Record  
BCAL-3889 Children's Foster Home License Application

A sample order form follows. Additional order forms are available on the DCWL  
web site: [www.michigan.gov/dhslicensing](http://www.michigan.gov/dhslicensing)  
Click on "Children's Foster Care"  
Scroll down to forms, the first item in the list is the order

<u>FORMS &amp; PUBLICATIONS:</u>	<u>QUANTITY</u>
Special Investigation Record BCAL-259	_____
Licensing Record Clearance Request CWL-1326	_____
Environmental Health Inspection Request BCAL-1787A	_____
Children's Foster Home Rules Compliance Record BCAL-3080	_____
Children's Foster Home License Application BCAL-3889	_____

**Agency Name, Contact Name & Mailing Address & Phone No.:**