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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 Bureau of Children and Adult Licensing (also referred to as BCAL 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 homes/foster family group homes. Current rules were filed with the Secretary of State on September 20, 2000, and became effective January 1, 2001.

The administrative rules for **Child Placing Agencies** are divided into seven 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

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 Foster Home Certification Handbook provides direction and assistance to child placing agencies in the certification of foster homes for licensure. The handbook focuses on:

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

Suggestions are provided to assist agencies in the determination of a family's compliance with the Licensing rules as well as the writing of an agency's required policies.

Maintenance of Handbook

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 handbook. The Handbook and CPA letters will continue to be available via the 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 Office of Children and Adult Licensing 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
>
> The department … is responsible for the development of rules for the care and protection of children in organizations covered in this act …

> Section 3 (3) of Act 116
>
> 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 Handbook 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 Bureau Of Children And Adult Licensing And Child Placing Agencies

Section 5(3) of Act 116

> *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 8(2) of Act 116

> *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 Bureau of Children and Adult Licensing licenses child placing agencies and approved governmental units (family courts) that certify foster homes for licensure.

CPA R 400.12301 Department authorization

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

BCAL 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

> *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 information outlined 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 Bureau of Children and Adult Licensing issues licenses to child placing agencies and certificates of approval to 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.

CPA R 400.12302 Program statement
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.
(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. Agencies are then responsible for conducting the required onsite inspections and to provide ongoing supervision to those foster homes certified by the agency.

CPA R 400.12303 Policy and procedures
(1) An agency shall have and follow written policies and procedures for assessing and certifying foster homes for licensure.
(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)Placement agreement.
(i)Foster parent training.
(j)Reevaluation.

(k)License recommendation.
(l)Borrowed home.
(m)Special evaluation.
(n)Foster home record.

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

PLACING AGENCIES HAVE DUAL INTERESTS:

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 Bureau of Children and Adult Licensing to issue a license or deny a license to applicants after the initial investigation 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 and make a determination of compliance with the applicable rules. The agency is to make a licensing recommendation based on the determination of compliance with the applicable rules.
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 Bureau of Children and Adult Licensing when there is a change of address, the licensee group or the terms of the license.

THE ROLE OF THE BUREAU OF CHILDREN AND ADULT 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 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 BCAL to certify private homes for licensure as foster homes. Part 3 of the Child Placing Agency rules governs how this process takes 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 in maintaining an existing license.

CPA R 400.12302 Program statement

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

CPA R 400.12304. Recruitment and retention

(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 and that identifies the causes of the loss of foster homes and prescribes actions to be taken to retain foster homes.

Note:An agency shall have a written recruitment/retention policy in accordance with **CPA R 400.12303**.

Communication of Need During Recruitment

Certifying agencies should 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.

Responding to Inquiries

It is recommended that a record of all inquiries 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, can be referred to other certifying agencies. The records kept by the certifying agency should, at a minimum, include:

- Who recorded the inquiry
- The day 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 routine group orientation for all inquirers.
- Making an appointment for a home visit.
- Mailing information to the inquirer.

An agency may **NOT** include an application form (BCAL-3889) in mailed information unless the inquirer has received the agency's required orientation.

Agencies may choose to use foster parent mentors 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

CPA R 400.12307 Orientation

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.

FH R 400.9203 Orientation

Before completing and submitting an application for an original license, each applicant for a foster home license shall attend orientation pursuant to R 400.12307.

The agency is to follow their written foster parent orientation policy, which is required by Child Placing Agency Rule R 400.12303.

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 orientation on, at a minimum, those topics identified in Child Placing Agency Rule R. 400.12307.

It is critical for those individuals providing orientation to make it clear that the agency will complete a check of the Central Registry for each adult member of the household and that a **LICENSE WILL NOT BE ISSUED** when any applicant or adult member of the household is identified as a perpetrator of child abuse or neglect. Providing this information during orientation, and prior to giving an application, allows an individual who has been placed on the Central Registry to choose to not apply for a license.

In a two-caregiver home, both inquirers must attend orientation.

FH R 400.9201 Foster home applicant qualifications

A foster home applicant 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 or express a willingness to learn how to provide that care.

(e) Have adequate time to provide care and supervision for the children.

(f) Have a defined source of income, and be capable of managing that income, to meet the needs of the foster family.

(g) Be of such physical, mental, and emotional health to assure appropriate care of children.

(h) Express a willingness, and demonstrate the ability, to work with a foster child's family or future family.

(i) Demonstrate suitable habits, temperament, and reputation to assure the proper care and safety of children.

(j) Demonstrate a willingness and ability to comply with the licensing rules for foster homes.

(a) The minimum age for foster parents is 18 years of age. There is no maximum age for foster parents.

(b) The standards for determining good moral character are covered in the Evaluation of Record Clearances section of this handbook.

(c) The agency program statement must clearly identify the types of children served by the agency. See **CPA R400.12302**. This allows an applicant to make an informed decision regarding willingness to

care for children the agency serves.

(d) The agency should assess the applicant's general knowledge of normal child development and how to meet the needs of children. The agency should also assess how the applicant will be able to provide care to children who have development delays, who are not socialized well because of parental abuse or neglect, who are behind educationally, who have attachment disorders and other conditions that are present in the children needing care. If an applicant does not have a good understanding of the care that is needed by children served by the agency, is the person willing to learn?

The questions for assessing these topics might be:

- Do you have children of your own?
- What experiences have you had in raising children or caring for children on an ongoing basis?
- How do you think abuse or neglect could affect a child's developmental level?

(e) The agency should have clear expectations for prospective foster parents related to the obligations that come with fostering:

- Does the agency expect the foster parent to provide transportation to visits and therapy?
- How often do 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 prospective foster family 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 prospective foster families explore whether they have the time to foster.
- If the foster parent works, who will supervise the children during work time?
- Does the prospective foster parent belong to clubs, sports teams, or other organizations that take a lot of time?
- Will the foster parent have to change their leisure time activities to have time to meet the needs of the foster children?
- Who will provide support/substitute care 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 caregiver(s) to also provide for the needs of the foster children?

(f) The agency should have clear policy regarding what proofs of income are required. Foster parents must have adequate income to meet the needs of the family without foster care payments. Foster care payments are reimbursement for care provided, they are not to be considered as income. The foster parent's income must be from a legal source, i.e., employment, pensions, investments, etc. The agency may wish to ask for pay stubs, previous income tax records, bank statements, etc., as needed. There is no prohibition against public assistance as a source of income. If a family is receiving public assistance, the agency is to obtain information from the local Department of Human Services that details what the work requirements are for the grant and whether the grant is time limited.

The foster parent must be able to manage the income to pay their bills. Because 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. The agency may ask for verification of the family's expenses such as rent, house payments, utilities, car payments, insurance, telephone, gasoline, credit debt, etc. Routine expenses such as food, clothing and entertainment should also be included when determining if the family has sufficient income to meet their needs.

(g) If an applicant is receiving Social Security income for a disability, the agency must determine if the reason for Social Security eligibility will affect the applicant's ability to provide foster care. Physical, mental, and emotional health are discussed in the section on Rule Compliance Part, 2 Application and Licensing, which covers obtaining medical statements.

(h) The foster family must to be willing to, and demonstrate the ability to, work with a child's family or the child's future family. Questions that might be asked are:

- Will the foster parent be able to support family reunification when birth parents have previously neglected or abused their children?
- Is the foster parent willing to discuss the progress children have made, as well as the problems they are having, with the birth parents?

- Is the foster parent willing to share decision-making with birth parents?
- Is the foster parent willing to have family visits in their home?
- Will the foster parent work with potential adoptive families the agency identifies for a child?

A foster parent'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.

(i) When there is a pattern of arrests, but no convictions, the agency is to evaluate whether the individual has "suitable habits". Alcoholism and drug abuse are other areas of concern that should be assessed under the "suitable habits" section of the rule. Assessment of these issues is to be individualized. See the Record Clearances and Enrollment section.

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

Agencies **<u>may not</u>** specify other qualification criteria, such as: 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). Pre-screening potential applicants or recommending denial of issuance of a license or other disciplinary licensing action on an existing license may not be done using such criteria, as it is discriminatory.

CPA Rule 400.12306 Application request

(1) *An agency shall document that both of the following conditions are met before providing a person with an application:*
   (a) The person expresses a willingness to provide care for the types of children served by the agency.
   (b) The person has received orientation

(2) 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:
   (c) A copy of the act.

(d) Administrative rules for foster homes.
(e) Administrative rules for child placing agencies.
(f) Good moral character rules.
(g) The child protection law.
(h) The children's ombudsman act.
(i) The agency's program statement.
(j) The agency's foster care services policies.
(k) The agency's foster parent training requirements.

Importance of Needs Assessment

Act No. 116 of the Public Acts of 1973, as amended, 722.115, Section 5(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 R400.12306(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.

When providing a person(s) with an application, many agencies find it useful to prepare a standard document to be placed in the foster home licensing file, that indicates that "On mm/dd/yy date, applicants Jane and John Doe were provided with an application for foster care after completing the required orientation." A space is provided for the applicants to sign indicating that they received the orientation and specified documents, and that they are willing to provide care for the children that the agency serves and to fulfill the expectations as identified in the agency's program statement. This provides evidence of compliance with all of Child Placing Agency Rule R 400.12306.

All local offices of the Department of Human Services have an obligation to accept and process applications from families who have, or anticipate having, a related child in placement. Non-DHS agencies do not have this same obligation.

CPA Rule 400.12308 Application submission

(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.

FH R 400.9204 Application submission

(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.

Mandatory Procedure

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.

NOTE: The child placing agency does not have the authority to ask an individual who has not signed an application to provide the agency with substantive information.

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 investigation 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; two adult living together partners, regardless of sex; 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 can be submitted.

Once the agency receives the completed and signed application, agency staff must conduct an investigation. The investigation must include a home study visit unless the application is withdrawn.
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 investigation 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 denied.

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

RECORD CLEARANCES AND ENROLLMENT

CPA Rule 400.12309 Records check

(1) *An agency shall, upon receipt of an application, initiate a records check of each applicant and each adult member of the household. The check shall pertain to previous licenses, criminal convictions, and substantiated child abuse and neglect.*

(2) An agency shall, upon receipt of information indicating a lack of good character or suitability on the part of the foster parent, initiate a new records check.

FH R 400.9205 Records check

(*1) A foster home applicant 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:*
(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.

<u>Mandatory Procedure</u>

When an application to operate a foster home has been made with the agency, it is the responsibility of the certifying agency to initiate criminal history checks 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 "suitability" of adults in the household.

Records checks are completed concerning three separate histories:

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

FINGERPRINTING

A recent amendment to the Child Care Organizations Act, Public Act 116 of 1973, requires the fingerprinting of applicants for adoption and foster home licensure effective January 1, 2008. This law also requires that current foster parents comply with fingerprint clearances prior to their next license renewal. The Michigan legislature has enacted this statutory change to comply with federal requirements set forth in the "Adam Walsh Child Protection & Safety Act", H.R. 4472 of 2006, which is federal legislation 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 on a database administered by the Michigan State Police. (MSP) The Department of Human Services (DHS) contracts with a private company, currently L-1 Identity Solutions, Inc., to perform the live scan fingerprinting, by appointment, at multiple sites in Michigan.

BCAL has created a new License Record Clearance Request form (BCAL 1326cw), specifically to address the issue of electronic fingerprint criminal history checks for applicants and licensees. This form obsoletes previous versions and is required for use in any application packet submitted to BCAL for enrollment after December 28, 2007. *This is a mandatory form. A separate form must be completed for each adult living in the home, including adult members of the household who are in the home only on an ongoing or recurrent basis*. Per Foster Home Rule R 400.9101(i), the agency should define who is considered a "member of the household" by establishing criteria for the words "ongoing" and "recurrent basis". The agency should be very clear with their policy regarding the need for record clearances. The statues **does not** require fingerprinting of adult members of the household. It does, however, require a BCAL-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 R400.12313.

Once an applicant/licensee has been fingerprinted there is no requirement for record checks to be redone, as the agency will automatically be provided any information regarding additional illegal activity via the rap-back feature of the fingerprinting process. The rap-back system provides notification, via e-mail, to BCAL immediately whenever any new information pertaining to arrest and/or convications is posted to the rapsheet associated with an applicant/licensee who has been fingerprinted for licensure as a foster parent. BCAL will then forward a copy of the notification to the agency via U.S. mail.

Record checks must be completed when:

- a child living in the home turns 18
- an adult person moves into the home
- there is a change of address and/or licensee group (adding or removing a licensee on a two person license), except in the case of the death of one licensee. Since these circumstances require a new application and assessment, new record clearances are required.

Record checks via an BCAL-1326CW are not to be completed for substitute caregivers. The Bureau of Children and Adult Licensing will not complete Record Checks for substitute caregivers. Agencies who want to complete record checks for substitute caregivers should complete them through local law enforcement agencies or through ICHAT.

ICHAT is an online resource that allows criminal record checks. Use of ICHAT does not include a PS check. Non-profit agencies are able to obtain police clearance information through ICHAT. ICHAT is an internet location that allows criminal record checks. Use of ICHAT does not include a PS check. See http://mi-mall.michigan.gov/ichat for further information on ICHAT and other available on-line services.

Record Clearance Request Procedures

Section I of the BCAL-1326CW 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 now. **NOTE: Do not omit your agency's license # or BCAL will be unable to link fingerprint results with the agency that requested them. Applicants will also need the agency's license # when scheduling their fingerprinting appointment.**
- 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, if one has been assigned. For new applicants, the box should be left blank.
- License/Applicant Type is to be checked Foster Parent when the agency has an application for a foster home license. If the record check is being completed for an adoptive applicant who is not applying for a foster home license, one of the other three Adoption options is to be checked.
- The role of the Person being cleared is to be indicated by checking Applicant, Licensee or Adult Member of the Household.
- Three categories of people are fingerprinted; each category is *assigned a 3-letter code and an Agency ID # on the BCAL-1326CW – e.g. foster home license applicants or active licensees (AWF) – Agency ID#: 68465P; adoptive applicants for a child from the state foster care system – i.e. "foster child adoption" (AWA) – Agency ID# 68464J; and adoptive applicants for a child not from the state foster care system – i.e. "private domestic adoption" (AWP) – Agency ID#68466H. These numbers are located beside the 3-letter code under the Livescan Fingerprint Request box in the upper right-hand corner of the BCAL-1326CW. The CPA worker checks the correct application type and checks the corresponding box located in the upper right hand corner of the BCAL-1326CW.*

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 number of the individual. The item identified "ALSO KNOWN AS" is to be filled in for anyone who has used another name, including maiden names and previous married names. If the person has not used any other names, indicate NONE in the box provided.

At renewal, it is critical that the applicant's name as written on the BCAL-1326CW is 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 on BITS.

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.

The person being fingerprinted or cleared must sign and date the form. The agency should 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.

- The applicant/licensee must make an appointment to be fingerprinted. L-1 Identity Solutions, the current contractor. ***L-1 Identity Solutions will accept appointments online at www.L1id.com or by telephone at (866) 226-2952. When making an appointment, L-1 will request the Agency ID number assigned on the 1326CWand the requesting CPA's license #.***

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

- The contractor conducting the fingerprint scan completes the BCAL-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 BCAL-1326CW to the applicant/licensee. The applicant/licensee must not destroy or misplace this form, as 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.

- L-1 Identity Solutions 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 BCAL. BCAL will provide both clearances to the Child Placing Agency that initiated the request when the licensing action is processed.

- The CPA sends the returned BCAL-1326CW with the TCN# on applicants/licensees and the single BCAL-1326CW completed by adult household members along with one copy of both pages of the completed application (BCAL-3889) to the

BCAL for processing. All forms for a family should be sent together.

All BCAL-1326CW forms are date stamped, by BCAL, with the date of receipt in the Lansing office.

BCAL will complete ICHAT clearance on adult household members and Central Registry, Public Sex Offender Registry (PSOR) and previous license checks, for all applicants/licensees and household members.

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.

The Central Registry System of the Department of Human Services is also checked to determine if the person has a record on the Central Registry for substantiated child abuse or neglect. If there is a record of substantiated abuse or neglect, a printout from the Central Registry System will be attached and returned to the agency with the BCAL-1326CW.

Section IV will be completed indicating the ICHAT system was checked for adult household members to determine if there are any criminal convictions that have been reported to the Michigan Department of State Police. If there is no record of criminal convictions, the box in Section IV will say "NO LEIN CONVICTION" with the date the record was checked. If there is a record, the LEIN specialist will initial the box and attach a printout from the ICHAT system to the BCAL-1326CW.

<u>Unable to Complete a ICHAT check</u>:

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 BCAL-1326CW will appear on the LEIN record as a user of a social security number matching the one on the BCAL-1326CW. The name of this person will appear on the ICHAT printout. This information may be shared with the applicant**.** A cover memorandum will be attached to the BCAL-1326CW along with the printout with the name of the individual using the social security number. The memo will state that BCAL is unable to complete the LEIN 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 LEIN specialist, the memo from BCAL will indicate that this is what is to be done. 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 that the family be issued a license, the cover memorandum indicating that BCAL was unable to run the clearance and the documentation obtained locally must be attached to the enrolled BCAL-3706 when it is sent to the Bureau of Children and Adult 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 BCAL received via e-mail will be printed and attached to each corresponding BCAL-1326CW, even if no information as found. The agency is then to assess all information included in the attachments provided. (See section on Evaluating Fingerprint Results.)

Enrollment Procedures

All properly completed license applications are required to be enrolled into the BCAL Bureau Information Tracking System (BITS). Agency certification workers should submit applications for enrollment at the earliest possible date.

For each foster home applicant, the agency certification worker is to send the BCAL-1326CW for each adult member of the household and one copy of both pages of the BCAL-3889 to:

Bureau of Children and Adult Licensing
7109 W. Saginaw Highway, 2nd floor
PO Box 30650
Lansing, MI 48909-8150

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 Bureau of Children and Adult Licensing.**

The BITS system will generate an BCAL-3706, Children's Foster Home Licensing Transaction Record, showing the enrollment of the family into the BITS system and assigning a 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, generally on Monday night. The enrolled BCAL-3706 will be mailed to the agency separate from the completed

(BCAL-1326CW) clearances and the associated (BCAL-3889) application.

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

Enrollments expire one year from the date that the associated application was signed.

EVALUATION OF THE RECORD CLEARANCES

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

Previous License:

If the family has been previously licensed to do foster care, 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 complaints. Contact with the previous licensing consultant should be made if the previous license was for children's 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, or revocation, or "in lieu of adverse action" prior to 01/01/2001 where the noncompliance was serious enough to warrant disciplinary licensing 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 which 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.

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

Current License:

If there is a current day care license, the day care consultant should be contacted. The license may also be reviewed at www.michigan.gov/dhslicensing via the Online Lookups, under Child Care Centers and Homes. Daycare capacity must also be considered with regards to compliance with FH R 400.9401. If a current adult foster family home license exists, that license must be closed before a children's foster care license can be opened.

Central Registry Clearance:

If a local office of the Department of Human Services has substantiated child abuse or neglect, the box will be checked "yes". A printout from the Central Registry will be stapled to the BCAL-1326CW. The printout 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.

The agency should review the information and discuss it with the person being cleared.

Occasionally, a printout will be returned because there is a name match with a birth date of 01/01/1901. **This is the birth date entered by CPS on the Central Registry System when they do 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 is to obtain the opening and closing

reports from the CPS supervisor 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 information and the methods by which the determination was reached are also to be outlined in the home study narrative.

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 a 01/01/1901 birth date listed.

If it is determined that the person who was placed on Central Registry is an applicant/adult member of the household A LICENSE WILL NOT BE ISSUED. 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 DHS office. The supervisor will make a determination of whether the case will be expunged or not. If the supervisor does not expunge the case from Central Registry, the situation will go to an administrative hearing through DHS. If the case is expunged, the applicant/licensee should provide written documentation that the case has been expunged.

If the local DHS 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.

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 to the "Child Welfare Information Gateway" – a website maintained by the U.S. Department of Health and Human Services. In alphabetical order, this site provides every state and U.S. territory's department responsible for the Children's Protective Services

(CPS) program and the name, address, phone number, fax number and email address of the CPS program head.

http://www.childwelfare.gov/pubs/reslist/rl_dsp.cfm?typeID=20&rate_chno=19-00010

When working on an out-of-state CPS clearance, the CPA worker should 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-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. Current DHS policy precludes licensing an individual who is listed on the Michigan Central Registry. This same policy now applies to out-of-state registry "hits". In these instances, the certifying agency must recommend denial of issuance.

Conviction Clearance:

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.

Evaluating Fingerprint Results

- CPAs will continue to apply the Good Moral Character (GMC) process to the 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 BCAL, if the CPA continues to recommend licensure or renewal.

- Michigan fingerprint results come in the same format as LEIN and ICHAT results – 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 even if the MSP/FBI does not have conviction data available to provide. In the case of a non-specified crime charge, the CPA will interview the applicant/licensee about the charge and describe the information gathered in the initial or renewal evaluation.

- 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 a denial of issuance/refusal to renew disciplinary action recommendation.

- 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 R400.9502(d) to not report an arrest.

- 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. Absent the applicant/licensee acquiring written explanation and resolution of the error from the arresting law enforcement agency or the involved court, BCAL 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.

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 <u>all</u> criminal convictions, both misdemeanor and felony, no matter when they occurred.** Common excuse given by a person who does not list a conviction, when he/she has one is, "I thought they only wanted felonies" or ìit 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 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 it 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.
5. **Acquire copies of police reports in cases when possible.** 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.** 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 he has only been off parole supervision for a very short time period. In such a case, the amount of time, which 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, 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 their guilt 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.
   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 those listed in the GMC rule. Also, if there are multiple convictions of the same charge, there should be separate crimes described for each charge.

FH R 400.9201 Foster home applicant qualifications

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

(b) Be of good moral character.

(i) Demonstrate suitable habits, temperament, and reputation to assure the proper care and safety of children.

The criminal involvement of all the adult members of the household are to be assessed for a determination of compliance with Foster Home Rules 400.9201(b) and (i). The information that shows up on the print-out that relates to criminal convictions must be evaluated to determine good moral character.

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, 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
- 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. Also, 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 NOT INCLUDE RETAIL FRAUD

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 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"

<u>Non-Specified Crimes</u>

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 BCAL-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 suitable habits, temperament, and reputation 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 or that a person is listed on the DHS Central Registry, the applicant/licensee is to be notified. A copy of the print out MAY NOT be given to the applicant/licensee.

The agency should then gather all relevant data, including the CPS report if there is a Central Registry listing. Police reports should be obtained when a conviction is found or disclosed by the person on the BCAL-1326CW.

A conference is to be arranged to discuss the record and provide the applicant with an opportunity to present any facts which indicate that the individual is a person of good moral character and has suitable habits, temperament, and reputation to provide children's foster care.

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.
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 – (depending on the circumstances):

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 as outlined above along with any related statements and evidence in their foster home study. The agency may then recommend that the Bureau of Children and Adult 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) APPROVAL IS REQUIRED.

ADMINISTRATIVE REVIEW TEAM (ART)

When the agency completes the entire licensing investigation, 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 rule, the agency is to complete a separate report referred to as the ART Summary.

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, 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
- Controlled substance, narcotic or alcohol offenses (Felony)
- Poisoning

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 Summary provides the criminal history including the date and name of committed offense(s). The format then 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.

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 Director
Bureau of Children and Adult Licensing
7109 W. Saginaw Highway, 2nd Floor
PO Box 30650
Lansing, MI 48909-8150

ADMINISTRATIVE REVIEW TEAM REVIEW SUMMARY
(Outline)

DATE:

NAME OF PERSON TO BE REVIEWED:

RELATIONSHIP: [ ] Applicant/Licensee [ ] Adult Member of Household

FOSTER HOME NAME:

FOSTER HOME LICENSE NUMBER: CF or CG

FACILITY TYPE: [ ] Foster Family Home (1-4) [ ] Foster Group Home (5-6)

AGENCY LICENSING RECOMMENDATION: [ ] Original [ ] Renewal [ ] No change [ ] Modification to provisional

CHILD PLACING AGENCY: agency license number, address

CONVICTION(S) date(s) & crime(s)

OTHER RELEVANT INFORMATION:

CRITERIA FOR REVIEW:

1. Circumstances:
2. Length of time since offense(s):
3. Evidence of rehabilitation:
4. Relationship of offense(s) to foster parenting:

Attachments to be included with an ART Summary

For criminal convictions:

- A copy of the application
- A copy of the OCAL1326 and the print out
- A copy of the enrolled OCAL 3706 filled out and signed (if a new license is pending)
- A copy of the Initial Home Study assessment (if a new license is pending)
- Applicant's written description of the offense(s)
- Local clearances, ICHAT clearances

- Police reports/Court reports.
- Probation or parole reports.
- Other documents that support the agency recommendation.

The Adoption and Safe Families Act of 1997

On November 19, 1997, the President signed into law the Adoption and Safe Families Act (ASFA) of 1997. 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, only 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 day care, despite certain criminal convictions. In response to this requirement, BCAL 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 BCAL now 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 offense

ENVIRONMENTAL HEALTH INSPECTIONS

CPA R 400.12310 Initial evaluation

(3) The report shall be an assessment of all of the following:

(f) Adequacy of the applicant's house, property, neighborhood, schools, and community for the purpose of fostering as determined by an on-site visit.

FH R 400.9305 Bathrooms; water supply; sewage disposal

(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 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 Bureau of Children and Adult 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, BCAL will not pay the pumping fee.

Inspection Requirements

Forms

When the Agency is requesting an inspection; the certification worker completes Items 1 – 21 on the Environmental Health Inspection Request, BCAL-1787A, and forwards to the local health authority.

NOTE: Item 9 refers to the name and address of the certifying agency that is 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 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" Ratings — Substantial compliance.

"B" Ratings — 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 at the time of the next annual inspection. It is the responsibility of the agency certification worker to schedule the re-inspection (by submitting another BCAL-1787A to the health department) and ensure that it is completed. **

“C" Ratings — 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 ensure that it is completed. **

****NOTE**: 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" Ratings	Disapproved. A license is not to be recommended unless there is a variance. A variance will not be approved in most cases.

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 association with regulations governing mobile home parks may suffice. Ask your agency's licensing consultant to review the reports for content. A single inspection at the time of original application is sufficient, unless a re-inspection is warranted as indicated below.

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 careworker notes a potential problem during a routine home evaluation.

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 Bureau of Children and Adult Licensing will approve payment for any subsequent health inspections via the procedures outlined earlier in this section.

RULE COMPLIANCE

PART 2 – APPLICATION AND LICENSING

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

FH R 400.9201 Foster home applicant qualifications

A foster home applicant 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 or express a willingness to learn how to provide that care.
(e) Have adequate time to provide care and supervision for the children.

(f) Have a defined source of income, and be capable of managing that income, to meet the needs of the foster family.
(g) Be of such physical, mental, and emotional health to assure appropriate care of children.
(h) Express a willingness, and demonstrate the ability, to work with a foster child's family or future family.
(i) Demonstrate suitable habits, temperament, and reputation to assure the proper care and safety of children.
(j) Demonstrate a willingness and ability to comply with the licensing rules for foster homes.

FH R 400.9202 Member of household qualifications

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.
(b) Have a temperament, habits, and reputation that will not impair the care of a foster child.
(c) Be in a state of physical, mental, and emotional health that will not impair the care of a foster child.
(d) Be willing to accept a foster child into the foster home as a member of the household.
(e) Any adult member of the household who provides care for foster children shall also meet the qualifications specified in R 400.9201.

FH R 400.9206 Foster home evaluation

A foster home applicant shall do all of the following:
(a)Allow the agency reasonable 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.
  (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 of each member of the household.
  (vi) Parenting skills and attitudes toward children.
  (vii) Methods of discipline of children.
  (viii) Adjustment and special needs of the applicant's own children.
  (ix) Strengths and weaknesses of each member of the household.

(x) Experiences with own parents and any history of out-of-home care.
(xi) Family's perception of the purpose of foster care.
(xii) Reason for applying to be a foster family.
(xiii) Previous experience in providing child foster care, child day care, or adult foster care.
(xiv) Attitude of each member of the household toward accepting a foster child.
(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) Capacity and disposition to give a foster child guidance, love, and affection.
(xvii) Family's willingness to work with a foster child's family.
(xviii) Adequacy of the applicant's house, property, neighborhood, schools, and community for the purpose of providing foster care as determined by an on-site visit.
(xix) The age, number, sex, race, ethnic background, and special characteristics of children preferred by the applicants.

(c) Provide the agency with both of the following:
(i) Three references from persons not related to the applicants.
(ii) 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 within the 12-month period before licensure.

Personal References

At least three unrelated references are required.

Each applicant is to provide the certifying agency with at least three (3) references from persons unrelated to the applicant. "Related" is defined in Act 116, Section 1 (o).

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.

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.

The information obtained from a reference can be the basis for expanding the licensing investigation to obtain facts from other sources relative 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.

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

Medical Statements

A current medical statement for each member of the household is required prior to issuance of an original license. An agency may also require a psychological examination, 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 recent complete 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.

The agency should request additional documentation if there is a known medical condition that could possibly affect the care of a foster child. This includes care needs of any household member that require the applicant/licensee to provide care that is more intensive than routine care.

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 me to (specify the certifying agency requesting the information)."

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

- Current information regarding the patient's health status and medical history.
- The physician's assessment of any known medical conditions that might effect the health/care/safety of a foster child.

Certifying Agency's Responsibilities

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 inform the applicant if the completed statements do not 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.

FOSTER PARENT TRAINING

CPA R 400.12312 Foster parent training

Rule 312 (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 not later than the end of the original 6-month licensing period and before the placement of a child. Not more than 6 hours of the orientation may be included as part of the 12 hours of training.

(c) Not less than an additional 12 hours of training during the next 2 years after the original licensing period.

(d) Not less than 6 hours of training annually after the time periods specified in subdivisions (b) and (c) of this subrule.

(3) The training specified in subrule (2)(a), (b), and (c) of this rule shall address all of the following areas:

(a) Characteristics and needs of children.
(b) Safe sleep practices for infants.
(c) Effective parenting.
(d) Behavior management.
(e) Importance of the foster child's family.
(f) Role of the agency.
(g) Emergency procedures, first aid, and fire safety.
(h) Preparation of the foster child for independence.

(4) An agency shall document all training received by each foster parent.

The agency is to follow their written foster parent training policy, which is required by Child Placing Agency Rule R 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.

FH R 400.9415 Foster parent training

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 the placement of a child.

> **For relative families, where the child is already in the home, the 12 hours of training must be delivered prior to the agency making a recommendation for issuance of an original license.**

Each licensee must have 12 hours of training during the next two years and 6 hours per year there after.

Each licensee, where there are two 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.

Examples of training methodologies:

- Training delivered directly to the foster parent 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.
- Review of videotapes/dvds.
- 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 Parent Orientation/Training

Child Placing Agency Rules 306 & 307/ Rules 310, 312 & 313

Category	Hours needed for each licensee	Content	Required completion time
Orientation	No minimum (a maximum of 6 hours may count toward the initial training requirement)	Rule 307(a-n)	Before an application is given.
Initial training	12 hours (may include up to 6 hours of orientation)	Rule 312(3)(a-g) plus the needs of the foster parents.	By the end of the 6 month provisional licensing period/however before a child can be placed.
Secondary training	12 hours	The remainder of Rule 312(3)(a-g) that may not have been covered during initial training, plus the needs of the foster parents.	Within the two years following the end of the 6 month provisional license period.
Annual training	6 hours	According to the foster parent training plan.	Every licensing year after the secondary training is completed.

RULE COMPLIANCE

PART 3. FOSTER HOME

FH R 400.9301 Maintenance

Rule 301. (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.

Inform the family prior to the home inspection what exactly the agency certification worker will be checking.

Be aware that determining the level of housekeeping requires an objective assessment. As a certification worker, be aware of your own biases and issues.

Look for cleanliness and orderliness as they relate to health and safety:

- Are floors, furnishings, appliances, and walls kept clean on a regular basis?
- Are clothing and bed linens kept clean and fresh?
- Are the dishes washed regularly?
- Are any of the following present?

Badly torn screens	Broken glass	Bare electrical wires
Overflowing garbage	Missing stair treads	Bare springs on mattresses
Lack of refrigeration	Holes in walls	Dangerous animals
Missing ceiling tiles	Accumulated clutter	Missing door knobs
Missing outlet covers	Missing stair railings	Peeling paint

The presence of any of these items may be an indication of rule violation.

Subpart (1) of R 400.9301 focuses on the home being clean, safe and in good repair. Special attention should be given to pools, ponds, trampolines, play areas and yard condition related to proximity to traffic/roads and necessary safety measures to be taken depending on the number and ages of the children to be cared for in the home.

Subpart (2) of R 400.9301 has a focus of the home meeting the needs of members of the household. The dining area, living area **and** bedroom space needs to be sufficient for the number of people in the household as well as for any identified special needs.

FH R 400.9302 Heat, light, and ventilation

Rule 302. (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.

- *Is the home comfortable, and airy?*
- *Are there adequate light fixtures for evening purposes?*
- *Are windows and exterior doors screened?*
- *If winter, are screens available for installation during warm weather?*
- *If screens not available, does the home have central air conditioning?*
-

FH R 400.9303 Flame and heat-producing equipment; maintenance; inspection

Rule 303. (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.

The agency should develop a written policy regarding what is expected regarding equipment maintenance and evaluate the extent to which 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:

- Do proper clearances exist around the heater?
- Is the home owner'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.

<u>Bedrooms must be free of portable heating devices.</u>

FH R 400.9304 Smoke detectors; carbon monoxide detectors
Rule 304. (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.

Are smoke detectors in place and operating? They should be tested at each annual and each renewal evaluation.

Are smoke detectors located in all required sites? All homes require at least one.

Is a carbon monoxide detector in place and operating? It should be tested at each annual and each renewal evaluation.

A carbon monoxide detector is required regardless of the type of heat source.

A carbon monoxide detector is required regardless of the existence of an attached garage.

FH R 400.9305 Bathrooms; water supply; sewage disposal
Rule 305. (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.

(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.

Request and receive an Environmental Health Inspection if the home has a private water supply or a non-public sewage system. If, as a result of a new mortgage or new construction, the home has had an inspection within the last 12 months, it is not necessary to request another inspection. SEE ENVIRONMENTAL HEALTH INSPECTIONS section.

Check the inside of the house for obvious signs of system failure:
- *Run water in the bathtub and sinks and observe drainage.*
- *Flush toilet and observe drainage.*
- *Determine if there are detectable sewer odors in the house.*

Check the outside of the house for obvious signs of system failure:
- *Determine if there are detectable sewer odors.*
- *Observe if there is water standing on top of the ground.*

Ask frequency of pumping of the septic tank. (2 yrs. recommended frequency)

Ask where laundry water empties. Ask where water softener is discharged. Large amounts of water going into the septic system may cause poor functioning or failure.

Test water temperature at each faucet accessible to a foster child.

The agency is to verify that bathroom facilities are available for use by foster children. Wheelchair accessibility is not necessary if the foster family does not regularly care for children who are wheelchair bound.

FH R 400.9306 Bedrooms

Rule 306. (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.

(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 ensure that all bedding and sleeping equipment comply with the following condition:
(a) All blankets shall be appropriate for the weather.
(b) All bedding and equipment shall be in good repair and shall be 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 for children 2 years of age and older
(e) Infants, birth to 12 months of age, shall rest or sleep alone in a crib or bassinet that meets the conditions of subdivision (e) of this subrule.
(f) All cribs and bassinets shall be equipped with:
(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, 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 be tucked in along the sides and foot of the mattress and shall not come up higher than an infant's chest.
(j) Blankets shall not be draped over cribs or bassinets.

(k) Infant car seats, infant seats, infant swings, highchairs, playpens, waterbeds, adult beds, soft mattresses, sofas, beanbags or other soft surfaces are not approved sleeping equipment for children 24 months of age or younger.

(l) 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.

Subpart (1)(a) Evaluate where adults and children are sleeping and whether adequate supervision can be provided. Are bedrooms on different floors?

(b) *Square footage is determined by measuring, in feet, how long and how wide the room is. Multiply the length by the width to obtain the square footage of a room. Divide this result by 40 to determine the number of people that the room can accommodate.*

(c) Look in closets and dressers to be certain that storage space for household members using the room is available

(d) Concrete or cement block walls are acceptable. Dirt floors in a "Michigan" basement are not acceptable. A loft bedroom does not comply with subpart (d), and must also be assessed for compliance with subparts (a) and (e).

(e) Hook and eye or sliding bolt locks on the outside of bedroom doors are not allowed and must be removed. Bedroom doors may have locks on them, but the locks must be unlockable from the outside with a key and from the inside without a key.

(f) The persons who will be using the bedroom <u>and</u> the caregiver(s) must be able to exit through a window in the room. If there is reason to believe that a household member or caregiver does not have the ability to exit through a window, ask to observe the person doing so. 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 at least one of the windows in each room.

Subpart (2) The primary function of the room must be as a bedroom.

Subpart (3) Types of beds that may be acceptable for older children are: Futons, Sofa Beds, Day Beds, Mattress on the floor (if preferred by the person sleeping on it)

Not acceptable as an ongoing sleeping arrangement:

Sleeping bags, cots, roll-away beds, and playpens.

FH R 400.9307 Exits

Rule 307. (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.

Finished basements may not be used as "living space", if there is not a second means of exiting from the basement in addition to the stairs leading to the floor above. A better definition of "living space" is the definition of a "habitable space" as it is used in the State of Michigan Residential Building code:

"The code defines a habitable space as a space in a building used for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces. Workout rooms, recreation rooms, offices, sewing rooms, play rooms, music rooms and any other space used for living would be included in the definition of a habitable space."

Windows may be used as a second means of exiting if they meet the requirements of the rule.

Common questions that may be asked:

- Has the family practiced exiting using the secondary means?
- Can all household members physically make use of a window exit?
- Have you tested the windows for their ability to be opened?

Is there a third level? If yes, does that level have a second direct exit to ground level?

In apartment buildings that have more than 3 floors, the agency is to document that there are 2 stairways from the floor that the foster home occupies. Each apartment bedroom must have an egress window. If the windows in a bedroom cannot be used for egress, a variance to R

400.9306 (f) must be approved before the room may be approved as a bedroom.

FH R 400.9308 Telephone
Rule 308. (1) A foster parent shall ensure that an operating telephone is available in the foster home.
(2) A foster parent shall ensure that emergency telephone numbers which follow appropriate agency protocol are within sight of the telephone.

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.

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.

FH R 400.9309 Wheelchair access
Rule 309. 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.

RULE COMPLIANCE

PART 4. FOSTER CARE

FH R 400.9401 Child capacity; living arrangement
Rule 401. (1) Not more than 8 children under 17 years of age, including children of the foster parents, who may live in or receive care in a foster home at any given time.
(2) 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.
(3) Children birth to 24 months of age shall sleep alone in a crib, bassinet, or toddler bed that is appropriate and sufficient for the child's length, size, and movement.
(a) An infant shall be placed on his or her back for resting and sleeping
(b) An infant unable to roll from stomach to back, and from back to stomach, when found facedown, shall be placed on their backs.
(c) 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.

(d) 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.

(e) 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 nonambulatory 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 the child and adult are siblings of the same sex, the child is less than 1 year of age, or the child has a special medical need that requires the attention of an adult during sleeping hours.

(6) A 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 or with only 1 other child of the same sex in a double bed. Sharing a double bed shall be based on the age, functioning level, and individual needs of each child.

(9) Resting or sleeping areas shall have adequate lighting to allow the foster parent to assess children.

(1) To determine the number of children under 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 day care, the total licensed day care capacity is counted. The number of day care children being cared for at any one point in time may be less than the licensed capacity, but the licensed day care capacity is the number that is to be used to determine the home's foster care capacity and compliance with this rule.

(2) Placement of triplets under 1 year of age requires a variance to this rule.

(4) An infant or young child who is nonambulatory, but small enough to be carried, may use a bedroom above the ground level of the foster home.

(5) If a foster child and a birth child have been sharing a bedroom and a sibling relationship exists, when the birth child turns 18 they may continue sharing the bedroom as siblings in compliance with the

rule. A new foster child may not be placed in the bedroom with the now 18 year-old birth child, however, as the "sibling" relationship did not previously exist.

If a child over 1 year of age is sharing a bedroom with an 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.

(7) "More than 5 years of age" means 5 years of age plus one day.

(8) If sharing a bed is to be approved as part of determining capacity; the age, functioning level and needs of the children being placed must be assessed. This must be done every time the children who will share a bed changes. The agency may have a policy requiring separate beds for each child.

FH R 400.9402 Child placement

Rule 402. (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.

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 (aka Placement Agreement) See Placement Agreement section.

(1) Placement specifications include the characteristics, age, sex, 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 can 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.

See BORROWED BEDS.

(4) Non-regulated family courts, i.e. courts that are not regulated as approved governmental units by the Office of Children and Adult Licensing, may not borrow foster homes unless there is an approved variance prior to the placement being made.

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

FH R 400.9403 Foster parent duties

Rule 403. 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 400.12406.

(ii) Religion as required by R 400.12407.

(iii) Mail as required by R 400.12408.

(iv) Education as required by R 400.12409.

(v) Personal possessions, allowances, and money as required by R 400.12410.

(vi) Clothing as required by R 400.12411.

(vii) Emergencies as required by R 400.12412.

(viii) Medical and dental care as required by R 400.12413.

(ix) Substitute care as required by R 400.12414.

(x) Unusual incidents as required by R 400.12415.

(xi) Hazardous materials as required by R 400.12416.

Agency policies may be more restrictive than the minimum required in the rules as long as the policies are not discriminatory. 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 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.
- Identify what types of information is expected to be provided.
  - 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 should 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 of training and receipt of agency policy. This statement could be part **of the agency's placement agreement document.**

FH R 400.9404 Behavior management
Rule 404. (1) A foster parent shall follow the behavior management plan developed for each foster child by the agency.
(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 himself or herself.

(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 400.12406**). The plan must be consistent with the agency's general behavior management policy and should be specific to the child and relate to the child's age, stage of development, and special needs. This should 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 should 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 theagency's responsibility to train the foster parent in the acceptable methods of restraint.

FH R 400.9405 Religion
Rule 405. A foster parent shall follow the agency's religion policy.
See **CPA R 400.12407**

Consideration of the foster parent's religious beliefs and a child's religious beliefs should be 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 should assist foster parents in planning for a child to attend religious services that are different from those the foster parent attends. Conversely, agencies should 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.

FH R 400.9406 Mail
Rule 406. A foster parent shall ensure that a foster child can send and receive mail in accordance with the agency's mail policy.

Agency policy (See **CPA R 400.12408**).should address the following with regard to US Postal mail **and** E-mail:

- 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.
- Who decides what is not acceptable for a foster child to receive?
- 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 should be addressed in a similar manner and may be included in the agency's policy regarding mail:

- Restrictions on long distance calls.
- Time limits for local calls.
- Phone lists – who decides who a foster child may call and/or receive calls from?
- Are phone calls to family made from the agency in the presence of agency staff?
- Phone cards.
- Caller ID and blockage

FH R 400.9407 Education
Rule 407. 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.

The agency must provide required documents, including immunization records, to 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.
- Participate in planning a child's educational program, including attending IEP meetings.
- Attend parent/teacher conferences.
- Co-operate with school personnel when a child experiences educational or behavioral problems at school.
- Monitor study time/homework completion.

There is no prohibition of home schooling. The agency must ensure that a child's educational and socialization needs can be met when considering a home schooling plan:

- Are necessary special education services available only in the public school setting?
- Are opportunities for participation in extra curricular activities available? i.e. sports, band, choir etc.
- Would home schooling afford the child an opportunity to "catch up" academically?
- Are the foster parents capable of providing for the child's needs both educationally and socially through home schooling?

FH R 400.9408 Personal possessions, allowances, and money
Rule 408. (1) A foster parent shall account for, and keep a list of, any cash or valuables which belong to each foster child and which are entrusted to the care and control of the foster parent.

(2) A foster parent shall ensure that all of a foster child's possessions are provided to the foster child or agency when the child moves from the foster home.

(1) The foster parent is to 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.

The agency is required to have a policy on allowances for the foster parents to follow. (See **CPA 400.12410**)

If withholding allowance is used as a behavior management technique, there should 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.

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

FH R 400.9409 Clothing

Rule 409. (1) A foster parent shall provide a sufficient amount of clothing properly sized and seasonally appropriate for each foster child, as arranged by the agency.

(2) Clothing provided to a foster child is the child's property and a foster parent shall ensure that the clothing is provided to the child if the child moves from the foster home.

- A foster parent is to follow the agency clothing policy. (See **CPA R 400.12411**). A foster parent should 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 should be consulted about what to do with that clothing. The biological family needs to be consulted to see if they would like the clothing before the foster family or the agency can dispose of it in another manner.
- Consideration should be given to the memories invested in certain items of clothing, especially when replacement of an item seems warranted.
- 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.

FH R 400.9410 Emergencies

Rule 410. (1) A foster parent shall follow agency 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.

(1) The agency is to provide the foster parent with written procedures for dealing with fire, tornado, and serious accident or illness (See **CPA R 400.12412**).

There should 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 with all emergency procedures.

(4) Foster parents are to have regular fire drills, especially when a new placement is made at the home.

FH Rule 400.9411 Medical and dental care
Rule 411. (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 are inaccessible to children unless medically necessary.
(4) A foster parent shall ensure that prescription medication is given or applied as directed by a licensed physician.

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

The agency, under the requirements of 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 should include:

- Clear minimal 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) Agency policy should identify who may make a decision for a child to have access to medication and under what circumstances this may occur.

Foster parents are to assure that all medication, both prescription and over-the-counter, is kept in a safe, secure location.

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

FH R 400.9412 Substitute care
Rule 412. A foster parent shall follow the agency's substitute care policy.

An agency must have a substitute care policy. The foster parent must follow the agency policy. Substitute caregivers include baby-sitters and day-care providers.

In accordance with **CPA R 400.12414**:

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

- Qualifications for substitute caregivers.
- Conditions under which substitute care may be utilized.
- Notification of the agency, by the foster parent, before the beginning of any planned absence which requires substitute care for a period of 24 hours or more.
- 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.

Substitute caregivers must be oriented to the foster home's emergency procedures and evacuation plan, per **FH R 400.9410(3)**. Foster parents are responsible for assuring that all agency policies are followed by substitute caregivers.

The agency substitute care policy should also:

- Clearly identify the qualifications for a substitute caregiver. There is no rule or statutory requirement that substitute caregivers be over the age of 18. The agency may establish a requirement for substitute caregivers to be adults. The agency may also identify other qualifications for substitute caregivers, such as:
  - Criminal record checks completed by the agency or the substitute caregiver.
  - Central registry checks completed by the substitute caregiver.
  - Training.
- Clearly identify the conditions under which substitute care may be utilized.
- Be specific as 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.
- 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.

There is no clear rule in the Foster Home rule related to supervision of children. Agencies may choose to have a general statement in the substitute care policy regarding an expectation that foster children must always have adequate supervision and what the agency considers to be "adequate" related to a child's age and level of functioning. It is suggested that an entire policy be written outlining the agency's expectations with regard to supervision of foster children.

"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 can be provided in the child's foster home or in the home of the substitute caregiver.

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, 722.111, Sec. (1)(f)(i) & (ii)**).

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 viola-

tion of the foster family home rules. An agency **cannot** place a foster child in an unlicensed home. (**See CPA R 400.12404(1)**)

The legal consideration is whether the care is a placement or substitute care and whether the length of the care requires a foster home license.

There is also confusion about what is a "visit" versus a placement when a child is in a foster home overnight. 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 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.
- Any plan for overnight visits 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 should be consultation with the certifying agency regarding these factors.

Foster parents should be able to exercise judgment regarding acceptable child activities such as, 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 should not be so restrictive that foster children are routinely deprived of these normal life experiences. See **Act 116, 722.124, Sec. 14**.

FH R 400.9413 Unusual incident notification.

Rule 413. (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.

The agency must have an unusual incident policy. Foster parents must follow agency policy. The policy must address all of the situations iden-

tified in the rule and may include other circumstances that the agency would like to require foster parents to report.

An agency's policy should include:

- Identification of who is to be contacted at the agency, along with the preferred method of contact.
- Telephone or other contact numbers that can be called at any time.
- Identification of any other agencies or organizations that must be notified in specific situations, i.e. protective services or law enforcement.
- Identification of any other expected actions to be taken by foster parent.
- Time frames for notification. Time frames for notification may be more restrictive than the rule. Agencies are encouraged to further restrict the time frames particularly in sections (3) and (4) of the rule.

FH R 400.9414 Hazardous materials
Rule 414. A foster parent shall follow the agency's hazardous materials policy.

The agency must have a hazardous materials policy. The policy must contain provisions regarding:

- The secure storage of dangerous and hazardous materials, objects, or equipment.
- The storage, in separate locked locations, of firearms and ammunition. The required registration of handguns. The use of trigger locks or other means of rendering the firearm fully inoperable.
- A clear statement that BB guns are included in the definition of firearm.

In considering what is to be covered by the agency's hazardous materials policy, the agency may want to include the following:

- Alcohol.
- Hunting equipment, such as bows, arrows, knives, etc.
- Cleaning supplies.
- Power tools and yard tools.
- Anything which could be used as an inhalant, including gasoline.
- Medications, consistent with **FH R 400.9410(3)**.

FH R 400.9415 Foster parent training
Rule 415. A foster parent shall attend training as required by the agency foster parent training plan.

Both people in a two-caregiver household must attend the required training.

The agency must have an overall agency training plan that addresses the numbers of hours and topics which are required.

The agency must assess the specific training needs of each foster parent at the initial evaluation and at each reevaluation.

The agency must clearly identify all acceptable means of acquiring training hours and the documentation necessary to receive credit.

See FOSTER PARENT TRAINING.

FH R 400.9416 Food and nutrition
Rule 416. (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.
(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.

- 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.
- 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.
- 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.

- Members of the household who are not foster children may use milk that is not pasteurized.

FH R 400.9417 Foster child tasks
Rule 417. A foster parent may permit a foster child to perform only those routine tasks that are within the child's ability, are reasonable, and are similar to routine tasks expected of other members of the household of similar age and ability.

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

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 400.9408**.

Foster children should not be the only household members routinely expected to complete chores and other household tasks.

FH R 400.9418 Recreation
Rule 418. A foster parent shall provide a variety of indoor and outdoor recreational activities and shall encourage a foster child to participate in recreational activities that are appropriate for the child's age and ability.

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 hunting, fishing, water skiing, snowmobiling, snow skiing, motorcycling, should be assessed on an individual basis according to skill level and should include supervision by an adult.

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.

FH R 400.9419 Transportation
Rule 419. 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 law.

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 via this method of transportation.

The foster parent must have a valid driver's license if they will be transporting foster children for the agency in a private vehicle. The agency should also ask for proof of vehicle insurance.

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.

All vehicles used to transport foster children must have sufficient seat belts to comply with State law. Foster parents who care for young children must also have a car seat as required by State law. Foster parents should be encouraged to have care seat installation checked by car seat technicians where available.

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 Rule R 400.9403(a).

RULE COMPLIANCE

PART 5. REPORTING AND RECORDKEEPING

FH R 400.9501 Reporting suspected child abuse or neglect

Rule 501. (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 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 Human Services.

(b) The agency.

(3) The foster parent shall provide a written report as required by the agency.

A foster parent is a regulated child care provider and is a required reporting person under 722.623 Section 3(1) of Act 238, PA of 1975, as amended, known as the Child Protection Law.

The agency is to provide the foster parent with the telephone number of the Children's Protective Services (CPS) office for the county where the foster home is located.

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 completing 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 be submitted, and what the report contents must cover.

FH R 400.9502 Reporting foster home changes.
Rule 502. 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 ho*usehold.

In addition to items a – g above, the agency policy may identify other "significant changes" which must be reported. Items (b) through (g) that refer to "member of household" include birth children, adopted children and children cared for under guardianship.

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 function, the family's ability to continue providing foster care and compliance with any applicable foster home licensing rules.

CPA R 400.12314 License recommendation.
Rule 314 (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.
(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 the reported changes in the foster home, these changes must be conveyed immediately to BCAL 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 ie 1-4 for a foster family home and 5-6 for a foster family group home)
- service types (adding or removing)
- the sex 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 BCAL. The corresponding assessment is to be filed in the agency foster home file.

If the change involves adding or removing a licensee from the foster home licensee group, an BCAL-3889 for the new licensee group and an BCAL-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 done again. Send the previously completed BCAL-1326CW and the corresponding atttachments. New applicants must be fingerprinted. The BCAL-1326CW that is returned to the agency with the TCN# is to be sent to be matched with the fingerprint results by BCAL. All non-applicant adult members of the household must complte a new BCAL-1326CW to be cleared by BCAL. 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. When adding a new licensee, the agency is to secure references from 3 non-related people for the new licensee along with a medical statement and the BCAL-1326CW.

If BCAL 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 BCAL-1326CW. If the agency is aware of past convictions that are non-specified crimes, a copy of the assessment of that crime should be submitted. If no ART approval letter or assessment

of the conviction is submitted and a criminal conviction shows up on any of the BCAL-1326CWs, the information will be returned to the agency for assessment prior to the changes being made.

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 BCAL and only need 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.

Changes in the licensee group will not change the license number, 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 BCAL-1326CW(s) to Lansing, however, it does need to be added to the foster home file. (See FHR 400.9504)

For questions regarding processing licensing transactions please refer to the chart in BCAL-3706 – PROCESSING LICENSING TRANSACTIONS.

FH R 400.9503 License application filing; agency notification
Rule 503. 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 daycare home certificate of registration, or a group daycare home license.

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 day care home. The total licensed capacity of the foster home, the total licensed capacity of the day care home, and the number of birth, adopted and children cared for under guardianship may not exceed 8 children under the age of 17 (see **FH R 400.9401(1)**).

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

FH R 400.9504 Change of residence; agency notification
Rule 504. A foster parent shall inform the agency of any planned change of residence and submit an application for licensure at the new address not less than 4 weeks before a move.

When the family notifies the agency of a planned move, an application (BCAL-3889) for the new address must be obtained along with a Record Clearance (BCAL-1326CW) for each adult member of the household. As with a change in licensee group (See CPA R400.1234) any applicants/licensees who have not been fingerprinted must be fingerprinted and a new BCAL-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. An BCAL-3080 must be completed for the relevant rules and an addendum to the most recent narrative must be completed.

The agency is to submit the Licensing Record Transaction (BCAL-3706) marked as a change, along with the BCAL-1326CW for the adults in the household. All information that is to be changed is to be lined through in red. DO NOT MAKE THE OLD INFORMATION UNREADABLE. The new information is to be printed in red ink. The license number will remain the same. If the family is moving from one county to another county, the first two digits of the license number will change to reflect the correct county number, but the rest of the number will remain the same.

If BCAL 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 BCAL-1326CW. If the agency is aware of past convictions that are non-specified crimes, a copy of the assessment of that crime should be submitted. If no ART approval letter or assessment of the conviction is submitted and a criminal conviction shows up on any of the BCAL-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 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, as the zoning statute no longer requires the excessive concentration data be completed along with the 45-day wait for a new license.

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 still needed and a new license number will be issued.

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 Rules R 400.9301 through R 400.9309)

FH R 400.9505 Confidentiality

Rule 505. (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.

(1) 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 would identify a child as a foster child on websites.

(2) Person 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.

FH R 400.9506 Record management

Rule 506. (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.
(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.

(1) A foster parent is required to maintain records on foster children placed in the foster home.

(2) 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.

(3) It is recommended that foster parents keep child records under lock and key.

(4) 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 recommended that the agency retrieve individual child records when the child leaves the home.

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 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.

Rules Compliance Record (BCAL-3080)

The purpose of the Rules Compliance Record is to summarize the findings of the evaluation of the foster family 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 an 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, mostly with new applicants, the circumstances do not exist for an assessment of compliance with a particular rule. For example, R400.9202(d) 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 indicated.

If a non-compliance with a rule does not exist, then the rule is to be considered in compliance. Do not write in N/A with regard to any rule assessment, all of the 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, sex and number of children for whom the foster family can 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 both applicants, if there are two, and the agency certification worker. The applicants should be provided with a copy of the signed, completed BCAL-3080.

CPA R 400.12311 Placement agreement

(*1*) *An agency shall have a written placement agreement signed by the foster parent and the agency before initially certifying a foster home for licensure.*

(*2*) *The placement 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.*

(*3*) *An agency shall review the 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 placement agreement.*

The agency is to follow their written placement agreement policy, as required by Child Placing Agency Rule **R 400.12303**. Written placement agreements must contain all required content per **CPA R 400.12311**.

Signatures on the initial placement agreement must predate the original license effective date. Annual reviews of the agreement should be documented in the foster home file. An agency may choose to have the licensees re-sign an agreement wherever 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.

CPA R 400.12310 Initial evaluation

(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 of each member of the household.

(vi) Parenting skills and attitudes toward children.

(vii) Methods of discipline of children.

(viii) Adjustment and special needs of the applicant's own children.

(ix) Strengths and weaknesses of each member of the household.

(x) Experiences with own parents and any history of out-of-home care.

(xi) Reasons for applying to be a foster family.

(xii) Previous experience in providing child foster care, child day care, or adult foster care.

(xiii) Attitude towards accepting a foster child.

(xiv) Willingness to parent cross-racially or cross-culturally and to create an atmosphere that fosters the racial identity and culture of a foster child.

(xv) apacity and disposition to give a foster child guidance, love, and affection.

(b) Previous adoption evaluations or placements.

(c) Previous licenses, criminal convictions, and substantiated child abuse or neglect for any member of the household.

(d) Three references from persons not related to the applicants.

(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) Adequacy of the applicant's house, property, neighborhood, schools, and community for the purpose of fostering as determined by an on-site visit.

(g) The age, number, sex, race, ethnic background, and the special characteristics of children preferred by the applicants.

(h) 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 characteristics, age, sex, race, and number of children preferred by the family, of children best served by the home, and of 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 that a copy of the initial evaluation is available upon request.

CPA *R 400.12313 Reevaluation*

Rule 313 (1) An agency shall conduct an on-site visit and complete a written reevaluation of a foster home annually.

(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.

(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 the characteristics, age, sex, race, and number of children preferred by the family, of children best served by the home, and of 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 notify the foster parent that a copy of the reevaluation is available upon request.

(6) An agency shall complete a reevaluation and shall make a licensing recommendation before the expiration date of the foster home license.

The agency is to follow their written foster home re-evaluation policy, which is required by Child Placing Agency Rule R 400.12303.

FH R 400.9207 Foster home reevaluations
A foster parent shall do all of the following:

(a) Allow the agency reasonable access to the foster home for licensing and foster child supervision purposes.
(b) 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 of the necessary information has been gathered and rule compliance assessed and recorded on the BCAL-3080, a written Initial Evaluation 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 the level 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.

Beginning October 1, 2008, all Initial Evaluations must be submitted in the format provided by BCAL or they will not be processed. 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

in the Resources section.

REMEMBER:

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 R400.12310** or **CPA R 400.12313** prior to making a licensing recommendation to the Bureau of Children and Adult Licensing.
To recommend that an ORIGINAL LICENSE be issued the following paperwork is to be sent to BCAL:

- The Initial Home Study report
- A completed BCAL-1326CW for each adult member of the household. For all applicants, fingerprints must have been completed and the TCN# indicated on the BCAL-1326CW.

- The enrolled BCAL-3706, completely filled out in red ink in accordance with the information contained in the home study report, and signed by the worker and the reviewing supervisor
- If an ART review is necessary it must be included in the paperwork submitted. See ADMINISTRATIVE REVIEW TEAM (ART).

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, as in the case of a loft bedroom, which does not meet the requirements in R 400.9306 (1)(d, e and possibly a), a rule variance must be requested prior to making a licensing recommendation.

To recommend a RENEWAL LICENSE be issued the following paperwork is to be sent to BCAL:

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

A renewal/annual assessment cannot be completed while a special investigation is in progress because rule compliance cannot be assessed until the special investigation is complete. In the case of an annual or renewal re-evaluation, any rule non-compliances found must have a plan of correction in place before a licensing recommendation can be made, if the recommendation is to continue the license.

Information regarding the paperwork necessary for the processing of most licensing transactions can be found in the certification flow chart and Processing Licensing Transactions table.

See **CERTIFICATION PROCESS Flowchart** at the end of the TA Handbook.

BCAL-3706 - TRANSACTION PROCESSING

ACTION	DOCUMENTS TO BE SUBMITTED
Enrollment	BCAL-3889, Application, BCAL-1326CW, Clearance form on all adult members of the household, TCN#s must appear on applicant forms

Original License (Code 2)	White copy of computer generated BCAL-3706, white copy of BCAL-1326CW with all attachments on all adult members of household, initial home study narrative, administrative review summary (as needed)
Renewal License (Code 3)	White copy of computer generated BCAL-3706, BCAL-3889, Application, BCAL-1326CW for all adult members of the houseold, fingerprints for all licensees.
Change in capacity or terms of license (no change in license type) (Code 4)	White copy of BCAL-3706
Change in license status from regular to 1st or 2nd provisional (Code 4)	White copy of BCAL-3706, copy of CAP signed by agency and foster parent(s)
Change in capacity (family home to group home or group home to family home) (Codes 13 & 2)	Enrolled BCAL-3706 for new license, BCAL-3706 for license to be closed, BCAL-1326CW for each licensee completed in previous 12 months.
Death of 1 licensee in a 2 licensee household (Code 4)	White copy of BCAL with name of deceased person marked out in red, copy of death certificate or obituary from newspaper
Transfer of foster home from one CPA to another CPA (Code 5)	White copy of BCAL-3706 signed by releasing agency supervisor and accepting agency supervisor with all changes in red, including agency information
Reopen (Code 6)	BCAL-3889, Application, BCAL-1326CW, Clearance form on all adult members of the household including fingerprints for applicants/ licensees, home study narrative
Denial of issuance (Code 11)	White copy of BCAL-3706, BCAL-3889, BCAL-1326CW for each adult in home, narrative that documents willful and substantial rule violation(s), supporting documentation

Withdrawal of enrollment Lack of response (Code 8)	White copy of BCAL-3706 and copies of letters to licensee (may not be used if rule violations have been found) or letter from the agency confirming the request to withdrawn.
Withdrawal of enrollment No longer interested (Code 9)	White copy of BCAL-3706 and copy of letter from licensee asking to withdraw (may not be used if rule violations have been found) or letter from the agency confirmating request to withdraw
Closure because of death (Code 10 or 15)	White copy of BCAL-3706, copy of death certificate or obituary from newspaper
Licensee moves to a new address. No longer wishes to be licensed. (Code 14)	White copy of BCAL-3706 and written request from licensee to close license or copy of letter to licensee confirming move and request to close
Licensee moves to a new address. Wants to be licensed at new address. (Code 4)	White copy of BCAL-3706 with changes marked in red, BCAL-1326CW for each adult member of household, including licensee fingerprints, BCAL-3889, application
Close active license due to a failure of licensee to respond to CPA (Code 12)	White copy of BCAL-3706 and copies of at least 3 letters to licensee attempting to contact (may not be used if rule violations have been found)
Close license at request of licensee (Code 13)	White copy of BCAL-3706 and copy of letter from licensee requesting closure or returned license (may not be used if rule violations have been found) or letter from CPA confirming the request to close
Close because family has adopted (Code 19)	White copy of BCAL-3706 and copy of letter confirming closure due to adoption
Licensee group changes-either adding or deleting name from a license (Code 4)	White copy of BCAL-3706 with deletions or additions made in red, BCAL-3889 signed with new group member(s), BCAL-1326CW for each adult member of household completed including fingerpritns for all applicants/licensees, copy of narrative assessing change in licensee group

Refusal to renew or revocation (Code 17 or 18)	White copy of BCAL-3706, renewal application (if appropriate) and narrative report that documents willful and substantial rule violation(s) with supporting documents
Remove an adult member of the household attached to the license (Code 4)	Photo copy of BCAL-3706 with a memo identifying the name and social security number of the person who has moved out of the home indicating the date the person moved.

SPECIAL EVALUATIONS/ COMPLAINTS

CPA R 400.12316 Special Evaluation

Rule 316 (1) An agency shall do both of the following when information is received that relates to possible noncompliance with any foster home rule:

- *(a) Notify the department's licensing authority within 5 working days.*
- *(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.*

(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.

(4) Before completion of the written report required by subrule (5) 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) Upon completion of the evaluation, an agency shall prepare a written report that includes all of the following information:

- *(a) The date the information was received.*
- *(b) Identification of the information source, unless anonymous or confidential, as specified in Act No. 238 of the Public Acts of 1975, as amended, being §722.621 et seq. of the Michigan Compiled Laws, and known as the child protection law.*
- *(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)I nform 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.

An agency is to follow their written special evaluation policy, which is 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 indicates a possible rule violation must be thoroughly investigated for the protection of the children in care and their foster families.

Documentation

An agency shall complete Sections I and II of a Special Investigation Record, BCAL-259, and submit to the Bureau of Children and Adult Licensing Complaint Unit within 5 working days of the agency receiving information that relates to possible rule violation. If the agency certification worker discovers such information during a regularly scheduled (annual or renewal) home inspection, an BCAL-259 is not necessary if the investigation can be incorporated into the annual or renewal assessment. If the issue is potentially serious and will likely involve a lengthy investigation, the re-evaluation must be put on hold until the special evaluation can be completed and rule compliance can be determined for the issue at hand. An BCAL-259 should be submitted and the special evaluation completed before returning to the annual or renewal assessment process.

- The Special Investigation Number is a computer-generated number that is created when the Complaint Unit enters the

BCAL-259 information on the BITS data system. Agency workers should 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
- The 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 should 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 BCAL 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.

At the close of the investigation, Section III, on the BCAL-259A, including the close date, is to be completed by the agency and returned to the BCAL Complaint Unit to close the investigation in BITS.

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 should make contact with the foster parents to arrange interview(s).

Not every investigation will necessitate a visit to the foster home. 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.

If 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 possible. The time frame for going out to the foster home should 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 the information to be gathered 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 Protective Services referral must be made immediately upon the receipt of this information. Agency staff may ask to be accompanied by CPS staff or the Police.

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, it is suggested that supervisors approve the visit, the time of a visit, the day a visit is to be made and the personnel to participate in the visit. When making unscheduled visits, staff should carry appropriate agency identification.

Foster parents are to be advised prior to their 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 should request that support persons sign an agreement to keep information about foster children and their families confidential.

Child placing agency staff should 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 comes to light during an investigation regarding additional non-compliances, it is not necessary to do a separate investigation. This material may be handled as a part of the existing investigation, as indicated in the report format.

The investigation is to be completed within 45 calendar days of the date of intake. 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.

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.

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 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. When the non-compliance is discovered during a routine re-evaluation and the investigation is a part of the annual or renewal home assessment, the majority of the same outline is to be incorporated into the agency's annual/renewal report.

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 is 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 DHS 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 DHS 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. A CPS report may not be substituted for a report based on the investigation of compliance with rules completed for certification purposes.

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.

A renewal/annual assessment cannot be completed while a special investigation is in progress because rule compliance cannot be assessed until the special investigation 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. In the case of a re-evaluation, any rule non-compliances found must have a plan of correction in place before a licensing recommendation can be made, if the recommendation is to continue the

license. A renewal license will not be issued when there is an open special investigation.

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 BCAL regarding continuing the license. The recommendation may be to continue the regular license or the agency may recommend placing the licensee(s) on a Provisional license. The recommendation of a Provisional license is not always necessary.

(CHILD PLACING AGENCY NAME)
SPECIAL EVALUATION REPORT

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, role):

II. SUMMARY OF ALLEGATIONS

This should be the same information entered on the OCAL 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 shall not be included in the report. Include 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.

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". Then 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, sex, 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.

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.

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. <u>SIGNATURES</u> - Be certain to date the report.

Name of Certification Worker Date

Telephone Number

Supervisor Date

Telephone Number

Corrective Action Plan

If rule violations exist, and the agency feels 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 that is developed jointly by the agency certification worker and the foster parent(s) is suggested.

A CAP may be no more than six months in duration. All of the information must be documented in accordance with the following Corrective Action Plan outline. Be certain that the information in each section is clear and specific as to involved parties, time frames and actions to be taken, including the documentation required to demonstrate completion of a task.

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 and the supporting facts.

2. Describe the actions to be taken that will bring the licensee back into compliance and identify how compliance will then 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. What are 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 Supervisor and Certification Worker
Any one 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

CPA R 400.12314 License recommendation

Rule 314 (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.

(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 noncompliances 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.

(ii) Require that the corrective action be completed within the period of the license.

(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 foster parent falsifies information provided during the licensing process or willfully and substantially violates the act, 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 requested documentation that is related to an agency recommendation or 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.

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 with violation or is this the latest in a series of problems?

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

Recommending A Provisional License Associated With Rule Violations

A provisional license is valid for six months. When rule violation(s) do not qualify as willful and substantial, but they 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 in turn 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 to the certifying agency an acceptable, written, signed plan 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 BCAL 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.

Four Provisionals Possible

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 can 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, 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 BCAL 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 appropriate. Discuss this recommendation with your agency's licensing consultant or BCAL licensing staff prior to submitting the recommendation.

**The Director of the Bureau of Children and Adult 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 BCAL licensing staff prior to submitting the recommendation.

**The Director of the Bureau of Children and Adult Licensing must approve a fourth provisional license.

Recommending A Disciplinary Action

A disciplinary licensing action is the means by which the Bureau of Children and Adult Licensing, as authorized by statute, is able to deny an license, modify the contested terms of a license, issue a contested proapplication, (this includes a renewal application) or revoke an existing license.

- a licensee has continued to demonstrate willful and substantial violation with the act, the terms of the license or the rules, has a continuing pattern of violation, has noncorrectable violations, or a violation is so serious that immediate action to protect is required.
- the nature and/or number of rule violations are such that the certifying agency can no longer assure that adequate care, safety, protection or supervision are being provided to the foster children.

Substantial Violation

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.

CPA R 400.12101. Definitions.
FH R 400.9101. Definitions.

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

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.

CPA R 400.12101. Definitions.
FH R 400.9101. Definitions.

To prove willful violation the licensing consultant must do both of the following:

1. 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.

2. 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:

Bureau of Children and Adult Licensing
Disciplinary Action Unit
7109 W. Saginaw Highway, 2nd floor
PO Box 30650
Lansing, MI 48909-8150

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 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 BCAL-1326(s) and any attachments when warranted.
5. Any written response from the applicant/licensee. If such a response is not received until after the initial mailing to BCAL, 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 BCAL.

<u>Disciplinary Licensing Action Cover Letter Outline:</u>

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 should 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, special evaluation) is attached to this letter. Based on the findings, we are recommending to the Bureau of Children and Adult Licensing that your foster home license be (denied, revoked, or not be renewed).

If the Bureau of Children and Adult Licensing supports our recommendation, you will be notified of any right to appeal the decision by the Bureau of Children and Adult 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 by the Certification Supervisor and the Certification worker who wrote the attached report.)

Upon receipt of the required documents requesting disciplinary action, the Disciplinary Action unit will review the written reports and documents to determine whether BCAL concurs with the recommended disciplinary licensing action.

BCAL Agrees

When the Bureau of Children and Adult Licensing agrees with the agency's recommended disciplinary action and feels there is sufficient evidence to support the action, BCAL will then notify the applicant/licensee of the intended licensing action via a Notice of Intent (NOI). The agency supervisor will receive a copy of the NOI as well. 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) within 30 days, the recommended licensing action will be implemented by BCAL.

The NOI will include a scheduled date and time for a compliance conference, unless the recommended action is 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 settle the matter. In the event a settlement cannot be reached, an administrative hearing will be scheduled.

If the applicant/licensee requests a hearing, BCAL 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.

Administrative hearings are 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 BCAL's case, unless the applicant/licensee is represented by an attorney, in which case BCAL'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 Human Services. All attendees will also receive a copy of the proposed decision. Either side may choose to submit an exception to the DHS Director regarding the proposed decision.

The final decision will be the DHS Director's. This final decision may only be appealed to Circuit Court.

BCAL Does Not Agree

When the Bureau of Children and Adult 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, BCAL will draft a letter to the agency, which will

- Explain "Why" the Department 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 Handbook.

BORROWED BEDS

FH R 400.9402 Child placement

(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 R 400.12303.

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".

CPA R 400.12315 Borrowed home

Rule 315 (1) Before placing a child in a foster home certified by another agency, an 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.*
- *(c) A copy of the initial evaluation 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 evaluation is acceptable.*
- *(e) A list of all children currently placed in the home.*
- *(f) Documentation that the foster parent has received orientation to the policies of the borrowing agency.*
- *(g) A copy of the placement agreement signed by the foster parent and the borrowing agency.*
- *(h) A copy of the current license certification documents from the certifying agency.*
- *(i) A copy of all special evaluations completed during the last 2 years.*

(2) 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.

Before making a placement in a borrowed home, the borrowing agency must obtain written permission from the certifying agency. Documentation of permission is to be kept in the borrowing agency's home file. Permission is given for specific placement(s). Additional/subsequent placements require additional requests to borrow and permission from the certifying agency.

The rule specifies that only an agency may borrow a bed from another agency; as defined in Act 116, therefore a certifying agency may not enter into a borrowed bed agreement with an unregulated organization, including unlicensed CMH programs and unauthorized family courts.

1. Non-regulated family courts, i.e. courts that are not approved as approved governmental units by the Bureau of Children and Adult Licensing, may not borrow foster homes unless the certifying agency obtains an approved variance prior to the placement being made.

2. Other non-regulated agencies, such as community mental health organizations, wrap-around programs, etc. may not borrow beds in licensed foster homes under any circumstance, including using the foster homes for "respite care"..

The certifying agency remains responsible for ongoing license supervision. The borrowing agency is to notify the certifying agency if rule violations are observed in the borrowed foster home. Complaint investigations remain the responsibility of the certifying agency.

(c)(d)Endorsement of the original and current evaluations means the borrowing agency believes the evaluations meet the requirements of the CPA rules and indicates this by initialing or endorsing each report. If the borrowing agency does not feel a report is sufficient/complete, the borrowing agency's certification worker must correct the report before endorsement.

(f)(g)The borrowing agency is required to orient the borrowed home foster parent(s) on their agency policies before making the placement. Documentation of this orientation should include a signed Parent/ Agency or Placement agreement with the borrowing agency. The foster parent(s) will be expected to follow the policies for both the certifying agency and the borrowing agency. Where the policies differ, the most restrictive policy will take precedence. The borrowing agency is to maintain all required documents per the borrowed home rule.

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.
- It can be done any time except during a pending disciplinary licensing action (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 that is 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 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.
- 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 who currently certifies the license is to send copies of all documents in the file to the agency considering the transfer.
- The effective date and expiration date of the license does not change when the licensee trasnfers to a new agency.

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. Zoning documents, if a foster family group home.
6. The most recent (and any other relevant) licensing home study reports and the corresponding BCAL-3080, Rules Compliance Record.
7. The most recent (and any other relevant) copy of the BCAL-3706, Licensing Transaction Record.
8. All completed complaint investigation reports and the associated BCAL-259 forms.
9. License Record Clearance Request, BCAL-1326CW, and assessments of criminal convictions or protective services substantiations if necessary. Any Administrative Review Team approvals are to be included.
10. Any other information that might assist the agency considering the transfer.

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

An enrollment can 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, an BCAL-3706, Licensing Transaction Record form is to be sent to the Bureau of Children and Adult 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 BCAL 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.

REOPENING A CLOSED ENROLLMENT OR CLOSED FOSTER HOME LICENSE

An enrollment automatically closes in the BCAL database 12 months after the applicant(s) signed the BCAL-3889, regardless of the date the information was entered into the data base. When an agency wishes to reopen the enrollment, a new BCAL-3889 must be submitted along with new BCAL-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 will be used. If the family now resides in a different county, only the first two numbers will be changed to reflect the new county of residence.

When the license has been closed less than 12 months, the agency may complete an updated study for the reopening of the license that covers the time period from the last assessment completed to present. A new BCAL-3889 and a placement agreement must be obtained. A new BCAL-1326CW will be required for each adult household member including fingerprint results for all applicants/licensees however; new medical statements and new references will not be required. An agency may make a decision to obtain new references and new medical statements or to require specific training classes at the discretion of the agency.

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. The updated home study which will resemble an original home study must be submitted with the BCAL-3889, BCAL-1326CWs for each adult household member including 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 BCAL 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 BCAL-1326CW. If the agency is aware of past convictions that are non-specified crimes, a copy of the assessment of that crime should be submitted. If no ART approval letter or assessment of the conviction is submitted and a criminal conviction shows up on any of the BCAL-1326CWs, the information will be returned to the agency for assessment prior to the changes being made

FOSTER FAMILY GROUP HOMES

A foster family group home with a capacity of 5 or 6 children is a community residential facility. Community residential facilities include: foster family group homes for five or six children; child caring institutions for five or six children; and all adult foster care facilities.

An assessment by local zoning authorities to determine whether another proposed or existing licensed community care residential facility, caring for 6 or less persons under 24 hour supervision, exists within a specified distance requirement is no longer necessary.

Procedures

The change from a foster family home to a foster family group home or vice-versa requires a new 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 Bureau of Children and Adult Licensing:

1. Children's Family Home License Application (BCAL-3889) signed by the applicant(s) requesting a group home license.
2. Original copies of the License Record Clearance (BCAL-1326CW) for each adult member of the household, including fingerprint results for all applicants/licensees. New BCAL-1326CW forms must be submitted for each adult member of the household who is not an applicant/licensee.

NOTE: *This procedure must also be followed when a licensed foster family group home relocates and intends to keep their capacity of 5 or 6.*

See CPA R400.12314 Changes

Issuance of a Foster Family Group Home License

The agency's recommendation to issue a foster family group home license will only be processed by BCAL when all of the following have occurred:

1. The completely filled out and signed BCAL-3706 for the foster family group home has been received from the certifying agency. 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.

2. All applicant's/licensees have been fingerprinted, other adult members of the household have been cleared and all results assessed by the agency.

Additional Issues

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 the BCAL 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 can 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".

Variances 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 Rule

CPA R400.12102

(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.

FH R400.9102

(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 tamily group homes for children.

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.

1. The letter must contain the following:
   a. Name, address, license number of the foster home or enrollment.
   b. Identification of the foster home rule or rules for which the variance is needed.
   c. A description of the circumstances necessitating the variance to the rule(s).
   d. 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.
   e. A brief description of all children in the home including the family's biological and adopted children in addition to any foster children already placed in the home and the children for whom the request is being written. The description is to include the child's first name, date of birth, special needs and behaviors and permanency plan.

f. Sleeping arrangements for all of the members of the household and the children for whom the variance request is being written, including bedroom square footage.
g. The length of time for which the variance is needed.
h. The letter must contain a supervisory signature.

2. If the variance is being requsted 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.
3. The request is to be forwarded to the Office of Children and Adult Licensing as follows:

   Director, Bureau of Children and Adult Licensing
   7109 W. Saginaw Highway, 2nd Floor
   PO Box 30650
   Lansing, MI 48909-8150
   Fax (517) 335-6121

4. The BCAL letter which transmits the decision to approve or deny the variance will contain the following:
   a. A brief summary of the request.
   b. Identification of the rule in question.
   c. A statement that approves or denies the variance.
   d. The basis or criteria for making the decision.
   e. The duration of the variance.
   f. Additional conditions that must be met in order for the request to be approved, if any.
5. 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.
6. 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.
7. 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/foster family has 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

Pubic Act 116 Section 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 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 Bureau of Children and Adult 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.

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 Bureau of Children and Adult 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 BCAL.

2. Placing a youth 16 or 17 years old in adult foster care

MCL 722.115, Section 5 (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 Bureau of Children and Adult 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.
- Documentation of consultation with the adult foster care licensing consultant assigned to the facility regarding the appropriateness of the recommended placement.
- 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 Consultant, a letter either recommending approval or denial of the request will be prepared and submitted to the Director of the Bureau of Children and Adult 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 BCAL.

NOTE: The statute only allows the Bureau of Children and Adult Licensing to authorize placement of a child 16 or 17 years of age into a 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 facility.

3. <u>Placing a youth less than 16 years old in an adult foster care facility</u>

MCL 722.118b
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) home or small group home.
(b) The psychosocial and clinical needs of the child are compatible with those of the other residents of the adult foster care home or small group home.

(c) The clinical treatment of the child's condition is similar to that of the other residents of the adult foster care home or small group home.
(d) The child's cognitive level is consistent with the cognitive level of other residents of the adult foster care home or small group home.
(e) The child is neurologically handicapped and is also physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.
(f) 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. The placement is in the best interest of the child.
(g) The placement has the concurrence of the parent or guardian of the child.
(h) The identified needs of the child can be met adequately by the adult foster care

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 Bureau of Children and Adult 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.
- Documentation of consultation with the adult foster care licensing consultant assigned to the facility regarding the appropriateness of the recommended placement.
- Information about the child including:
  - Name, date of birth, sex
  - 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 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.
  - As 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 Consultant, a letter either recommending approval or denial of the request will be prepared and submitted to the Director of the Bureau of Children and Adult 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 BCAL.

NOTE: *The statute only allows the Bureau of Children and Adult Licensing to authorize placement of a child younger than 16 into a small or medium size adult foster care facility. There is no statutory authority to authorize placement of a child younger than 16 into a large adult facility.*

4. Placing more than 4 children in a foster family home or more than 6 children in a foster family group home.

Public Act 116, Section 8b

(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 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.

Act 116, in 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 BCAL 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 BCAL 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).

FH R 400.9402 Child placement
(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, the child placing agency that certifies the home will be contacted by BCAL, 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 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

CPA R 400.12317 Foster home record.
Rule 317 (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, sex, 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 400.12316(6)(b).
(f) Zoning approval if a foster family group home.
(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 3 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:

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, BCAL-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 R 400.12316(6)(b).
- Any variance letters and responses
- Additional documentation as required by agency certification policy

Old Law Enforcement Information Network (LEIN) attachments to BCAL-1326CW's are NOT to be maintained in the Licensing file. 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 BCAL-1326CWs returned to an agency for each applicant/licensee. These attachments are to be kept in the licensing file. 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 BCAL along with the BCAL-1326CW and the BCAL-3706 when an agency is requesting a licensing action.

An agency is to maintain closed foster home records for at least three (3) years from the date of closure.

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, the agency receiving the request should copy the information 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. When foster home file information is

requested via the Freedom of Information Act or FOIA, the representative from the 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, as 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. Further information regarding FOIA requests is available at www.michigan.gov. 132 of

PLACEMENT OVERVIEW

TYPES OF CARE

Act 116 defines four types of family home care:

- foster family home
- foster family group home
- family day care home
- group day care home
- Act 116, Section 1(f) states:

Act 11*6, Section 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 Act 116, allows parents to place their own children in unlicensed, unrelated homes for periods of 4 or more days per week for 2 consecutive weeks would mean 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.

UNLICENSED HOME

CPA Rule 400.12404 (1)

An agency shall only place a child 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 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 or a legal guardian, i.e. any unrelated care provider, must be licensed before any staff person from a child-placing agency can place children in that home.

Relative/Legal Guardian, Legal Custodian Placement

Act 116, Section 1 (j)

> *"Legal Custodian" means an individual who is at least 18 years of ago 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.*

Act 116, Section 1 (o)

> *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 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.

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

FH Rule 400.9206(b)(xiii)

A foster home applicant shall do all of the following:
(b) Truthfully assist the agency in determining all of the following:
(xiii) Previous experience in providing child foster care, child day care, or adult foster care.

FH Rule 400.9503

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 day care home certificate of registration, or a group daycare home license.

A concurrent license exists when a person is simultaneously licensed to provide child day care (CDC) or adult foster care (AFC) and foster care for children (CFC).

At the time a family is applying for a foster family home license, the family must notify the agency if they are currently licensed, have previously applied for a license or have previously been licensed to provide child foster care, child day care, or adult foster care. Once the family has obtained a license for child foster care, they must notify the agency within 5 days of filing an application to provide child day care or adult foster care.

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

Act 116, Section 1 (k)

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.

Act 116, Section 1a(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 or 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 it 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 then apply to be concurrently licensed for Children's Foster Care.

Concurrent Child Day 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.

FH Rule 400.9401(1)

The maximum number of children under 17 years of age, including children of the foster parents, who may live in or receive care in a foster home at any given time is 8.

When a family is licensed for both family day care and children's foster care, the total licensed capacity of both licenses plus the number of biological, adopted, related and guardianship children under 17 years of age living in the home of the foster parents cannot exceed 8. The capacity of the two licenses is the number to be used in these calculations, regardless of the number of day care children/foster children currently being cared for and/or living in the home.

PROCEDURES FOR ORDERING FORMS AND PUBLICATIONS

Agencies may request the following required publications from:

DHS - Forms Management
235 S. Grand, Suite 203
Lansing, MI 48909

DHS PUBLICATIONS

DHS Pub. 3 Child Protection Law

DHS Pub 435 The Foster Child

Agencies may request the following required forms and publications from:

Forms Management
Bureau of Children and Adult Licensing
7109 W. Saginaw Highway, 2nd Floor
PO Box 30650
Lansing, MI 48909-8150

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 Act

FORMS

BCAL-259	Special Investigation Record
BCAL-1326CW	Licensing Record Clearance Request
BCAL-1787A	Environmental Health Inspection Request
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 BCAL web site: www.michigan.gov/dhslicensing

Click on "Children's Foster Care"

Scroll down to forms, the first item in the list is the order form

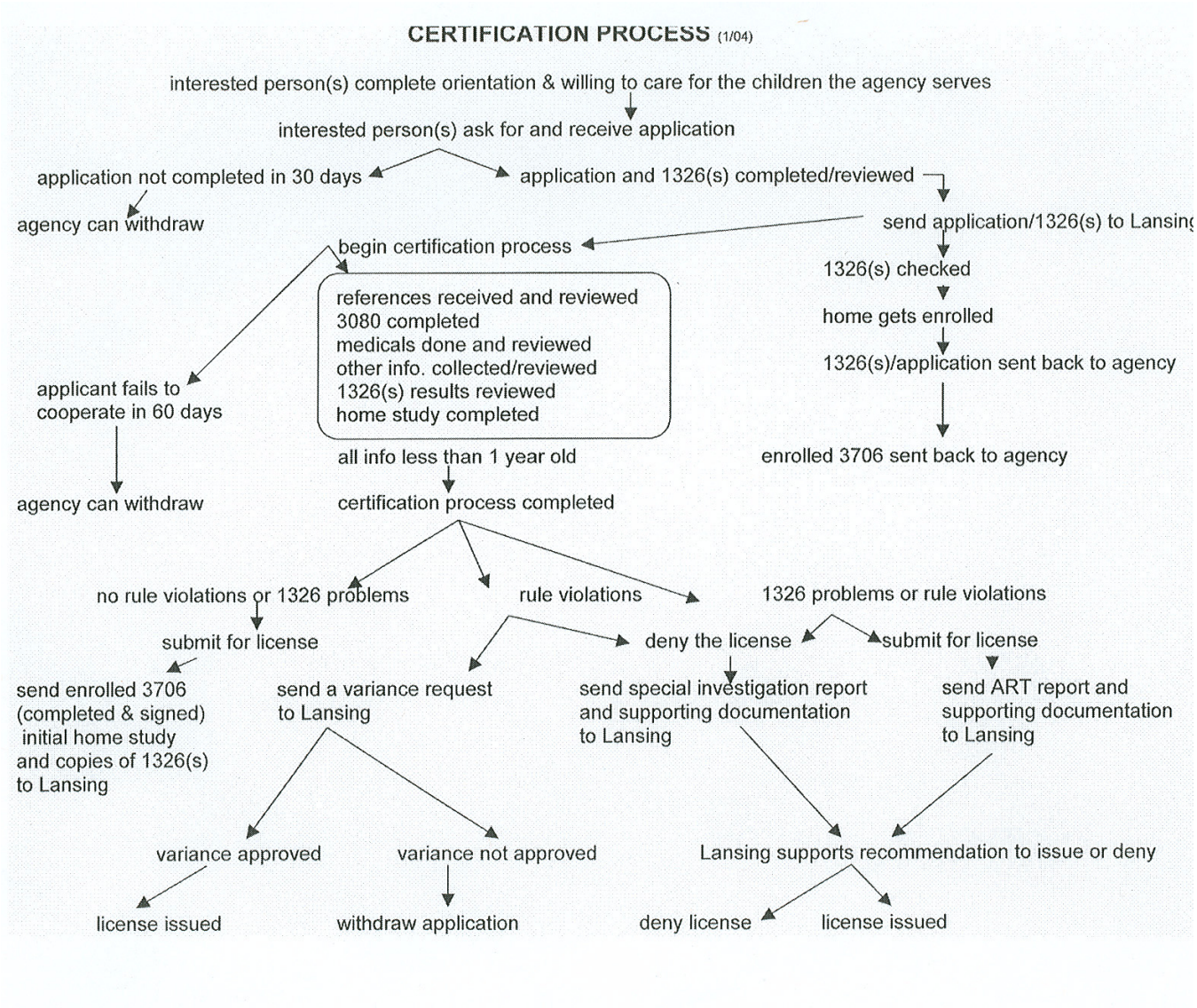
BUREAU OF CHILDREN AND ADULT LICENSING
Michigan Department of Human Services
Child Welfare Licensing Form Request

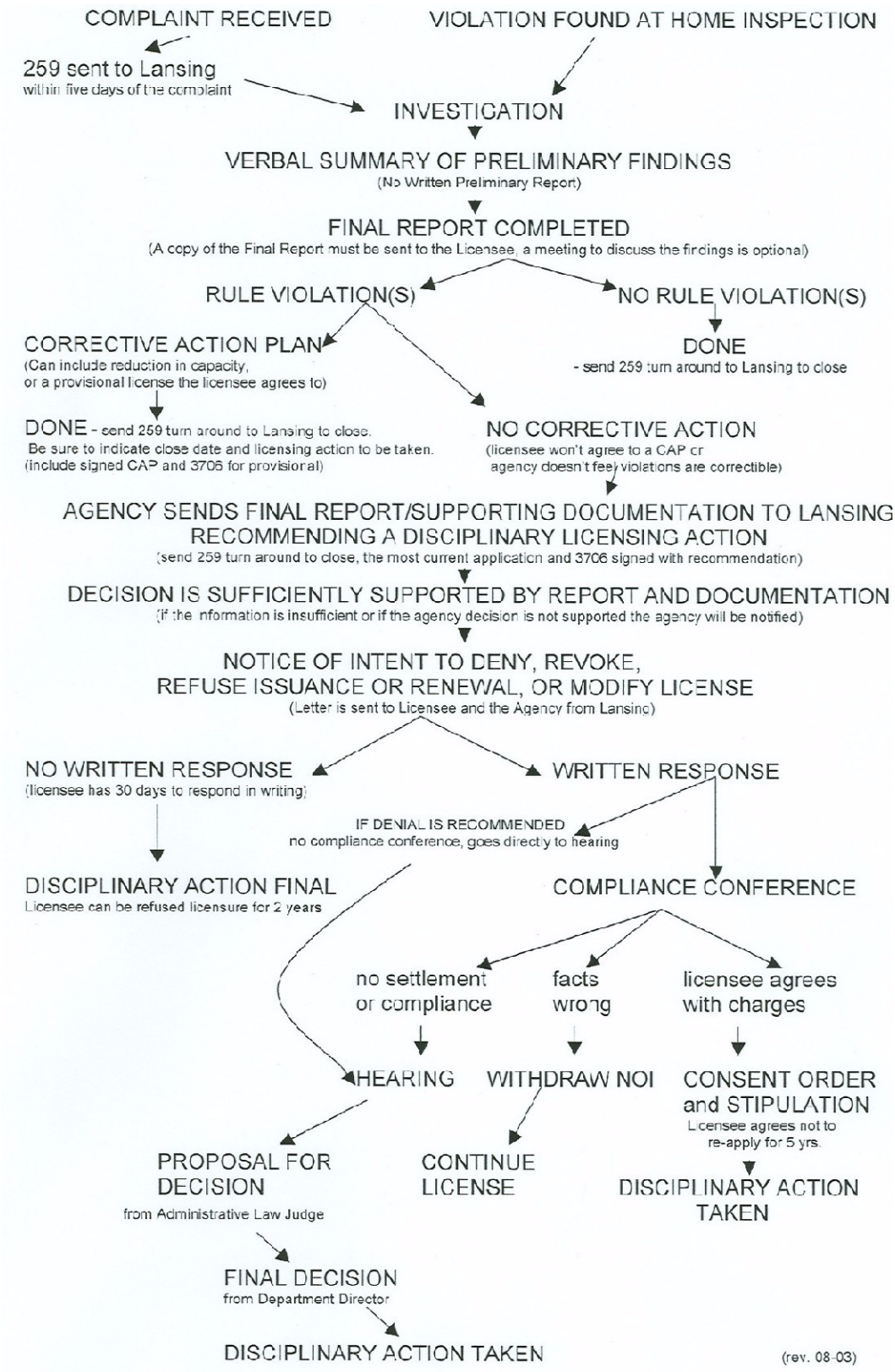
MAIL TO:
Forms Management
Bureau of Children and Adult Licensing
7109 W. Saginaw Highway, 2nd Floor
PO Box 30650
Lansing, MI 48909-8150
Fax: 517/335-6121

FORMS & PUBLICATIONS	FORM No.	QUANTITY
Special Investigation Record	BCAL-259	_____
Licensing Record Clearance Request	BCAL-1326	_____
Environmental Health Inspection Request	BCAL-1787A	_____
Children's Foster Home Rules Compliance Record	BCAL-3080	_____
Children's Foster Home License Application	BCAL-3889	_____
Licensing Rules for Foster Family Homes	BCAL-PUB-10	_____
Licensing Rules for Child Placing Agencies	BCAL-PUB-11	_____
Act 116, PA of 1973, as amended	BCAL-PUB-14	_____
Good Moral Character	BCAL-PUB-673	_____
Children's Ombudsman Act 4829-9424		_____

The Department of Human Services will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, political beliefs or disability. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you are invited to make your needs known to a DHS office in your county.

Agency Name, Contact Name & Mailing Address & Phone No.:


CERTIFICATION PROCESS (1/04)
interested person(s) complete orientation & willing to care for the children the agency serves
interested person(s) ask for and receive application
application not completed in 30 days
application and 1326(s) completed/reviewed
agency can withdraw
send application/1326(s) to Lansing
begin certification process
1326(s) checked
references received and reviewed
3080 completed
medicals done and reviewed
other info. collected/reviewed
1326(s) results reviewed
home study completed
home gets enrolled
1326(s)/application sent back to agency
applicant fails to cooperate in 60 days
all info less than 1 year old
enrolled 3706 sent back to agency
agency can withdraw
certification process completed
no rule violations or 1326 problems
rule violations
1326 problems or rule violations
submit for license
deny the license
submit for license
send enrolled 3706 (completed & signed) initial home study and copies of 1326(s) to Lansing
send a variance request to Lansing
send special investigation report and supporting documentation to Lansing
send ART report and supporting documentation to Lansing
variance approved
variance not approved
Lansing supports recommendation to issue or deny
license issued
withdraw application
deny license
license issued


COMPLAINT RECEIVED
VIOLATION FOUND AT HOME INSPECTION
259 sent to Lansing
within five days of the complaint
INVESTIGATION
VERBAL SUMMARY OF PRELIMINARY FINDINGS
(No Written Preliminary Report)
FINAL REPORT COMPLETED
(A copy of the Final Report must be sent to the Licensee, a meeting to discuss the findings is optional)
RULE VIOLATION(S)
NO RULE VIOLATION(S)
CORRECTIVE ACTION PLAN
(Can include reduction in capacity,
or a provisional license the licensee agrees to)
DONE
- send 259 turn around to Lansing to close
DONE - send 259 turn around to Lansing to close.
Be sure to indicate close date and licensing action to be taken.
(include signed CAP and 3706 for provisional)
NO CORRECTIVE ACTION
(licensee won't agree to a CAP or
agency doesn't feel violations are correctible)
AGENCY SENDS FINAL REPORT/SUPPORTING DOCUMENTATION TO LANSING
RECOMMENDING A DISCIPLINARY LICENSING ACTION
(send 259 turn around to close, the most current application and 3706 signed with recommendation)
DECISION IS SUFFICIENTLY SUPPORTED BY REPORT AND DOCUMENTATION
(if the information is insufficient or if the agency decision is not supported the agency will be notified)
NOTICE OF INTENT TO DENY, REVOKE,
REFUSE ISSUANCE OR RENEWAL, OR MODIFY LICENSE
(Letter is sent to Licensee and the Agency from Lansing)
NO WRITTEN RESPONSE
(licensee has 30 days to respond in writing)
WRITTEN RESPONSE
IF DENIAL IS RECOMMENDED
no compliance conference, goes directly to hearing
DISCIPLINARY ACTION FINAL
Licensee can be refused licensure for 2 years
COMPLIANCE CONFERENCE
no settlement
or compliance
facts
wrong
licensee agrees
with charges
HEARING
WITHDRAW NOI
CONSENT ORDER
and STIPULATION
Licensee agrees not to
re-apply for 5 yrs.
PROPOSAL FOR
DECISION
from Administrative Law Judge
CONTINUE
LICENSE
DISCIPLINARY ACTION
TAKEN
FINAL DECISION
from Department Director
DISCIPLINARY ACTION TAKEN
(rev. 08-03)