

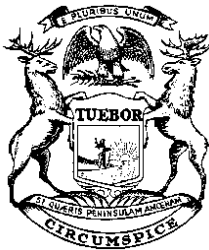
Biannual Inspection Report for Adult Foster Care Facilities

Pursuant to Section 11 Subsection (8) of the Adult Foster Care
Facility Licensing Act, 1979 Act 218 as amended, MCL
400.711(8)

April 3, 2023

Prepared by

Bureau of Community and Health Systems



**GOVERNOR
GRETCHEN WHITMER**



PROTECT PEOPLE &
PROMOTE BUSINESS

**DIRECTOR
ORLENE HAWKS**

REPORT AUTHORITY

ADULT FOSTER CARE FACILITY LICENSING ACT (EXCERPT) Act 218 of 1979

400.711 Inspections; visitations; administration and enforcement of rules; reports; final determination as to license; public inspection of reports; biannual inspection report for certain entities.

Sec. 11. (8) The department shall submit biannual reports to the appropriation subcommittees for the department, the senate and house fiscal agencies, and the state budget director containing a summary of input from individuals who perform inspections for entities regulated by the bureau of community and health systems, or a successor agency within the department. The feedback and input must be regarding the adequacy of federal and state guidelines pertaining to the areas that the individual inspects for the entities described in this section. The summary must include details of the feedback excluding information that identifies the inspectors providing the feedback. The summary may be cumulative in nature, but must be understandable to the general public.

DEPARTMENT OVERVIEW

The Department of Licensing and Regulatory Affairs (LARA) is composed of agencies and commissions that promote business growth and job creation through streamlined, simple, fair, and efficient regulation, while at the same time protect the health and safety of Michigan's citizens.

The Bureau of Community and Health Systems (BCHS) serves to protect and ensure safe, effective, efficient, and accessible community and health care services delivered by state licensed providers in Michigan. It is responsible for state licensing of facilities, agencies, and programs under all of the following public acts:

- Adult Foster Care Facility Licensing Act, 1979 PA 218
- Mental Health Code, 1974 PA 258
- Public Health Code, 1978 PA 368
- Child Care Organizational Act, 1973 PA 116

The majority of state licensing activities involve the issuance and renewal of licenses to qualified facilities, agencies, and programs; conducting initial, routine and revisit inspections to determine compliance with state and federal requirements; and investigating complaints against state licensed providers.

Methodology

This report provides a summary of input from individuals who perform inspections for entities regulated by the Bureau under section 11 of the Adult Foster Care Facility Licensing Act. It summarizes their input regarding the adequacy of state guidelines pertaining to the following types of adult foster care (AFC) facilities:

- Camps
- Congregate Care Facilities
- Family Homes
- Large Group Homes
- Small Group Homes

Definitions

Section 11 subsection (8) does not define “**individuals who perform inspections.**” Based on the context, this phrase has been interpreted to mean licensing consultants and other personnel who inspect, survey, or visit AFC facilities for regulatory purposes.

Section 11 subsection (8) refers to “**federal and state guidelines**”. However, the Bureau does not determine compliance with any federal guidelines for AFC facilities. In addition, section 11 (8) does not define “**state guidelines.**” Based on the context in which this term is used, it is interpreted to mean state statutes and administrative rules.

Survey of Inspectors

To gather the information for this report, a survey was conducted. A total of 70 personnel were surveyed. Responses were received from 54 individuals (77% response ratio). The survey opened on February 24 and closed on March 8, 2023.

Section 11 (8) requires that the **identity (ID)** of inspectors shall not be disclosed. Therefore, the survey was designed to ensure that respondents are anonymous. Each respondent was assigned an ID number so written comments could be linked to an individual respondent. The survey included 3 questions, 2 close-ended and 1 open-ended.

Adult Foster Care Facility Licensing Rules Currently Under Revision

When reviewing the comments from inspectors, please note that the following four (4) rule sets pertaining to AFC facilities are currently undergoing revision. A public hearing on these rule sets was held on February 24, 2023:

1. AFC Congregate Care Facility Licensing Rules – R 400.2401 to R 400.2475.
2. AFC Family Homes Licensing Rules – R 400.1401 to R 400.1442.
3. AFC Large Group Homes Licensing Rules – R 400.15101 to R 400.15411.
4. AFC Small Group Homes Licensing Rules – R 400.14101 to R 400.14601.

Results

Question 1: What types of entities do you inspect? "Inspect" means survey, investigate, review, or visit for regulatory purposes. *Note: An individual may inspect more than one type of entity.*

	Type of Adult Foster Care Facility or Camp	Number of Inspectors
1.	Adult Foster Care Camps	5
2.	Adult Foster Care Congregate Care Facilities	16
3.	Adult Foster Care Family Homes	48
4.	Adult Foster Care Large Group Homes	48
5.	Adult Foster Care Small Group Homes	49

Question 2: What is your opinion regarding the adequacy of state guidelines pertaining to the areas that you inspect? "Guidelines" mean state laws and administrative rules.

Rating	Responses
Inadequate	4
Somewhat Inadequate	12
Adequate	30
More than Adequate	8
Excessive	0

3. Briefly summarize your opinion of any state guidelines that you think are inadequate or excessive, along with any recommendations you have for improving them. Cite the state law or administrative rule along with the subject.

ID	Guidelines	Comments
2	N/A	I do not think that the state guidelines are inadequate; however, updating guidelines to reflect the use of current technology would be beneficial. Also, developing guidelines that address the use of cameras in homes and on doorbells, and social media use would be useful. Lastly, developing guidelines that pertain to legal marijuana use by residents who reside in AFC homes would be beneficial too.
3	N/A	The state's adult foster care family home rules are not adequate.
4	The rule referred to in the comment could not be located, "AF440(6)". Based on the content of the comment, apparently it pertains to the Fire Safety Rules for AFC Family and Small Group Homes, R 400.2255 – Heating.	AF440(6) should include that, if the heating plant is on the same level with the residents, the furnace room shall be separated from the remainder of the building with materials that will afford a minimum 1 hour protected enclosure. This is only included in rules for homes licensed before March 1980.
6	N/A	The entire AFC family home rule set is outdated and/or vague, subject to consultant interpretations.
7	R 400.1410 – AFC Family Homes -- Resident Protection	This rule simply states that the licensee or responsible person should be on the premises. This means that responsible people can essentially be outdoors working etc. for long periods of time leaving residents unsupervised.
9	R 400.14315 (3) – AFC Small Group Homes – Handling of Resident Funds and Valuables	Some of the state administrative rules are outdated - for example: R 400.14315 (3) which requires that the State Funds and Valuables Transaction Form be used. Many of the larger corporations use a financial app which documents the same information that the state form requires. If the rule could be amended to include the

ID	Guidelines	Comments
		information but not necessarily use the form the rule would allow adequate regulation for the rule that is current with the computer apps that are being used.
10	<p>AFC Family Homes – R 400.1401 to R 400.14101</p> <p>AFC Small Group Homes – R 400.14101 to R 400.14601</p> <p>R 400.15311 – AFC Large Group Homes – Investigation and reporting of incidents, accidents, illnesses, absences, and death</p> <p>R 400.14311 – AFC Small Group Homes – Investigation and reporting of incidents, accidents, illnesses, absences, and death</p>	<p>I feel that the family home rules and small group home rules should be combined. The differences between these two rule books are too vast and not consistent. I also believe that R 400.15311 and R 400.14311 (investigation and reporting of incidents, accidents, illnesses, absences, and death) should be changed. As a consultant, I spend an unreasonable amount of time reviewing Incident/Accident Reports. Now that everything can be done electronically, I suggest having licensees keep copies of Incident Reports but remove the responsibility of them having to send those reports to us. If the licensee keeps a copy, we should be able to examine it if the need arises.</p>
11	R 400.11109 – Children’s and Adult Foster Care Camps – Staff	<p>R 400.11109 (7) -- “A camp shall maintain a personnel record, collected before initial assignment, for each staff member, except medical professionals whose employing organization subcontracts with the camp to provide medical services and that already requires clearances and maintains a personnel file containing all required documentation and that may be reviewed at the employer’s site. The record shall include all of the following information” I believe these records should be collected yearly and not before initial assignment. With the current verbiage, a staff can be hired for 5 consecutive years and only have their background information completed once before their first year on staff. I believe staff should have their background information run each year to ensure the safety of campers. I would like to see more camps qualify for a license as well. There are many camps such as sports, theater, science, STEM, etc. camps that</p>

ID	Guidelines	Comments
		need assistance keeping campers safe. I understand these camps may not meet requirements to become a licensed camp, but they still need to meet minimum requirements to keep campers safe. They should at least be held accountable for maintaining staff records, emergency procedures, and all rules related to camper records.
12	This comment refers to a rule that could not be located, "Rule 415(8)".	Since the rules were adopted in 1986, technology has come a long way. Rules like 415(8) requiring paper copies and monthly signatures are outdated when most facilities use online accounting.
13	N/A	I believe facilities should be held more accountable regarding completing timely paperwork, training, staffing, and resident care.
14	R 400.14311 (1) – AFC Small Group Homes – Investigation and reporting of incidents, accidents, illnesses, absences, and death	Incident reporting varies with facilities. Some report more than required and a large portion of facilities do not report incidents timely.
16	AFC Family Homes – R 400.1401 to R 400.14101 AFC Small Group Homes – R 400.14101 to R 400.14601	I think the rules regulating family homes should be brought in line with the rules regulating small group homes.
18	N/A	I feel that the rules are outdated and could be simplified.
19	R 400.14312 – AFC Small Group Homes – Resident Medications	This rule states that a review process must be initiated when as needed medication is given "repeated and prolonged," but does not state how many days is considered as "repeated and/or prolonged." It's confusing because each individual has their own opinion as to how long is too long for a prescribed medication to be given before a review process is initiated. If there is a "timeframe" included, such as any prescribed as needed medication given for 5

ID	Guidelines	Comments
		consecutive days, then the review process must be initiated. At least now there's a concrete number provided for when licensees must review.
20	R 400.14304 – AFC Small Group Homes – Resident Rights	I would like to start by saying that this survey is packing a lot of information in and 5 minutes to complete it is a gross understatement. More questions should be asked to narrow down information that could be worked on rather than requesting staff to type up long answers. AFC rules are outdated and oftentimes don't match with recipient rights rules, or you have two agencies using resources to investigate the same complaint. To me, that can often be a misuse of resources and time. For example, small group home rules R 400.14304 Resident rights; licensee responsibilities all address resident rights. If a resident is involved with a community mental health agency, then the CMH agency would address whether or not their rights were violated. I understand licensing investigating if the resident doesn't have CMH involvement, but if they do, then licensing shouldn't investigate, and this should be forwarded to recipient rights. Again, this question is way too broad to answer appropriately, but overall, the AFC licensing rules are outdated, created in the 60's and 70's. A lot of changes in almost 60 years.
21	AFC Family Homes – R 400.1401 to R 400.14101 AFC Small Group Homes – R 400.14101 to R 400.14601	The family group home rules should coincide with the group home rules, so all are held accountable to the same rules and regulations.
22	N/A	The law and administrative rules need to catch up with technology. Many providers are now using systems that the rules don't recognize, making it harder to enforce regulations. For example, many providers use electronic medication records that can only be accessed by certain personnel. The current rules are more tailored to monitor the old way of administering medication to consumers.

ID	Guidelines	Comments
23	N/A	Adult foster care camps are relatively rare compared to other camps. I do not know if this is due to lack of demand, poor funding, or difficulty getting licensed.
24	N/A	Laws are outdated and need to be updated to reflect how people live currently.
25	N/A	The rules are adequate to ensure each facility is meeting our minimum standards on a consistent basis. I recommend we be required to conduct our inspections unannounced versus requiring us to give a one-day notice. I would also like the name to be changed as adult foster care sounds demeaning to the people living in these homes.
26	R 400.1404 – AFC Family Homes – Licensee, responsible person, and member of the household, qualifications	Licensees and responsible persons of the household are not required to have any experience or training working with the population they are serving unless they have a special certification. I recommend that all licensees and responsible persons should have the same training and experience requirements as small group homes.
28	R 400.1501 – AFC Large Group Homes – Environmental Health R 325.10101 et seq. – Department of Environment, Great Lakes, and Energy; Drinking Water and Environmental Health Division; Supplying Water to the Public Rules	"Rule 401. (1) Private water systems shall be in compliance with R 325.10101 et seq. of the Michigan Administrative Code. A bacteriological report confirming water quality shall be required during the initial inspection and every 2 years thereafter." County health departments complete the water test and sewer inspections and provide a report to this department. Some health departments do not have much follow through and will only make attempts at coordinating this inspection by telephone and end efforts if they don't make contact. Some health departments will test water directly from the well, while others test from the dispensary location. There is too much variability in the approach of different health departments. I would recommend a portable tool or test for the use of consultants to confirm water quality at the dispensary location at the time of inspection or shortly thereafter with the submission of water samples directly to water testing lab instead of waiting on the variability of health departments. Currently consultants only test water temperature. The private sewer inspection can continue

ID	Guidelines	Comments
	<p>R 330.1804 – Department of Community Health; Mental Health and Substance Abuse Services; Subpart 8. Certification of Specialized Programs Offered in Adult Foster Care Home to Clients with Mental Illness or Developmental Disabilities – Certification inspections and investigations</p>	<p>to be completed by the health department as they often regulate by county code and only complete a visual inspection and not quality.</p> <p>"R 330.1804 Certification inspections and investigations. (2) Upon receipt of a complaint regarding the provision of specialized program services..." Currently, specialized programs require a Recipient Rights Compliance Request to be completed from a county they contract with to ensure compliance with this rule. The consultant sends this request directly to the county rights department, and saves the results provided to the facility's record. A generous estimation of these requests being returned to the consultant would be 50%. In the absence of results, the consultant recertifies the facility's special program type. In the seven years I have worked in this role, I have never had a County Rights Office confirming non-compliance of a facility. Non-compliance would likely indicate a breach of the CMH contract, which oftentimes the Rights Office does not have the authority to determine on its own. I would suggest ending this process of requesting compliance from the CMH Rights Office, as these community partners have the ability to report rights violations through the complaint intake website or directly to the consultant as they occur.</p>
29	N/A	<p>In my opinion, most of the guidelines are adequate when it comes to inspections and original licenses. What I believe that is inadequate and excessive are the special investigations. The investigation approvals by management are not consistent among managers, and the requirements needed for investigations are excessive and irrelevant. For example, my manager requires me to basically conduct an entire renewal inspection when I have a special investigation. There could be one allegation, such as an allegation of inadequate food, and it is expected that I review all of the resident files, employee files, and interview all staff and residents. This is time consuming and unfair to the licensees and residents.</p>
30	R 400.14315 (3) – AFC Small Group	R 400.14315 (3) -- Handling of resident funds and valuables – This rule could be updated to allow facilities

ID	Guidelines	Comments
	<p>Homes – Handling of Resident Funds and Valuables</p> <p>R 400.14302 (5)(b)(i) – AFC Small Group Homes – Resident Admission and Discharge Policy</p>	<p>to track funds using computer programs or their own accounting systems and not on a licensing form.</p> <p>R 400.14302(5)(b)(i) -- Resident admission and discharge policy- licensees are issuing emergency or 30-day discharge notices but cannot discharge a resident until an appropriate placement is located. They are often stuck for months with residents who are putting themselves or others at risk in the home. They get cited for refusing to pick residents up from the hospital even when the resident is not appropriate for the home because there are no appropriate placements for highly behavioral residents.</p>