

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)

Submitted on August 31, 2023

Prepared by

Bureau of Community and Health Systems



PROTECT PEOPLE &
PROMOTE BUSINESS

**GOVERNOR
GRETCHEN WHITMER**

**ACTING DIRECTOR
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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 the following types of adult foster care (AFC) facilities:

- Camps
- Adult Foster Care Facilities

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 66 personnel were surveyed. Responses were received from 46 individuals (70% response ratio). The survey opened on August 1 and closed on August 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.

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	4
2.	Adult Foster Care Facilities	42

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	1
Somewhat Inadequate	9
Adequate	29
More than Adequate	7
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
7	N/A	At this time, I have not observed any inadequate or excessive state guidelines.
8	N/A	Guidelines need to be updated to the times- rules need to have some parameters for hospice care and DNR's. Rules need to be updated for today's fire rules.
9	N/A	AFC rules are minor and could be more in depth to assure resident safety, but the state is afraid of losing AFC homes. Many facilities violate multitudes of rules, but the state would rather settle rather than closing AFCs.

ID	Guidelines	Comments
11	<p>AFC Small Group Homes</p> <p>R 400.14408 (8) - Bedrooms generally.</p> <p>R 400.14315 - Handling of resident funds and valuables.</p>	<p>AS408(8)- Wording is dated AS315- Rule could be updated to reflect corporations using more complex accounting systems in place of Funds Part 2 forms</p>
12	<p>MCL 400.713</p>	<p>I find it difficult enforcing late corrective action plans. For example, our AFC rules don't even address corrective action plans and MCL 400.713 is the only spot in the law that even says corrective action plan. Several times a year, I have licensees that take several months to submit a corrective action plan for their renewals or even special investigations. It would be helpful if we put something about corrective action plan enforcement for both renewals and special investigations so that we can hold licensees accountable. Otherwise, we're just waiting. There is no clear policy on what to do if a licensee doesn't submit a corrective action plan other than disciplinary action may take place. But again, there's no direction for this.</p>
15	<p>N/A</p>	<p>My opinion will be dismissed.</p>
18	<p>AFC Small Group Homes</p> <p>R 400.14201 (4)(b) R 400.14201 (6)</p> <p>Qualifications of administrator, direct care staff, licensee, and members of household: Provisions of names of employee, volunteer or member of household on parole or probation or convicted of felony; food service staff.</p>	<p>There are rules that I believe could be more specific to eliminate grey areas so that consultants throughout the state have the same understanding and interpretation. R 400.14201 (6) Qualifications of administrator/licensee designee. R 400.14201 (4) (b). I have never completed a competency review developed by the department but have been asked about it by several applicants, who believe that if they "pass" this review that assists in qualifying for the role as licensee designee and administrator. It would be good to know what it consists of and if it is being used across the state by other consultants.</p>

ID	Guidelines	Comments
20	<p>AFC Small Group Homes</p> <p>R 400.14315(3) - Handling of resident funds and valuables.</p>	<p>R 400.14315(3)...a department form shall be used unless prior authorization... - I feel like this rule is inadequate in that licensees/providers are using accounting systems that have the same information as required on form BCHS-AFC 2318. As long as the required information is present, I feel like the department should allow for different accounting forms.</p>
23	<p>AFC Large Group Homes</p> <p>R 400.15401- Environmental Health</p> <p>R 325.10101 et seq. – Department of Environment, Great Lakes, and Energy; Drinking Water and Environmental Health Division; Supplying Water to the Public Rules</p>	<p>"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.</p> <p>Group homes that use a community-approved water system need not be in compliance with this requirement"</p> <p>This rule is adequate, but the way this rule is implemented by county health departments across the state is excessive. A facility will be provided with a failing environmental health inspection if their nitrate levels are too high, or with updates to city ordinance regarding distance or run off from city water utilities to current private wells. Some health departments will take samples at the point of consumption, allowing for ROS systems or filtration, while other health departments sample directly from the private well. A licensee cannot have their license renewed until they are in compliance with the local health department, which could potentially be thousands of dollars at the expense of the licensee. Our department (LARA) pays every county health department in excess of hundreds of dollars to complete an environmental health inspection that exceeds the requirements of the rule and interferes with our department's licensing process.</p> <p>I recommend either establishing state guidelines for the health departments across the state that reflect only the desired results, which is only a bacteriological report, or providing consultants with portable tests or tools to measure or identify the level of bacteria in a facilities</p>

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		water supply. Both countermeasures would reflect a savings in budget for this department.
24	N/A	Based on my two years of experience working in adult foster care facilities I do not have any state guidelines that are either inadequate or excessive.
28	AFC Small Group Homes R 400.14315 (5) - Handling of resident funds and valuables.	315(3)- The department form is outdated. The rules have not changed since 1986 even though technology increased exponentially during that time. Licensees would prefer to use electronic monitoring and with things like Skype or Zoom, guardians are not always visiting to sign the form each month. It is a rule desperately needing to be updated.
31	AFC Small Group Homes R 400.14204-Direct care staff; qualifications and training. R 400.14406 -Room temperature.	All of the AFC state administrative rules could use updated language since they have been written. Confusing language such as R400.14204 does not designate direct care as required to be a high school graduate or equivalent. R400.14406, Room temperature is confusing as it states that temperature must be regulated between 68 and 72 in non sleeping hours (so this means it can be colder or hotter than that during sleeping hours?) and then taking precaution the resident is not exposed to temperature over 90 degrees for any prolonged period of time (does this mean if the facility is not air conditioned, then it is ok not to regulate temperature?). Confusing and most elderly residents want it very warm inside the facility. I encourage licensees to make sure temp preferences and needs are explicitly defined in the assessment and the physician notes the need for a warmer air temperature. However, it is not easy to keep residents warm without using heated blankets or other means of heating individual rooms.
32	N/A	I have no identified inadequate or excessive guidelines identified at this time.
33		The administrative rules for adult camps are integrated into the same rule set as children's camps even though they derive their authority from two different statutes (PA 116 of 1973 and PA 218 of 1979). I believe the rules are adequate and not excessive.
34	AFC Small Group Homes	Rule 400.14201 (2) or Rule 400.15201 (2)- Qualifications of administrator, direct care staff, licensee etc.- this rule is inadequate as it does not address a

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	<p>R 400.14201(2) - Qualifications of administrator, direct care staff, licensee, and members of household: Provisions of names of employee, volunteer or member of household on parole or probation or convicted of felony; food service staff.</p> <p>AFC Large Group Homes R 400.15201 (2) - Qualifications of administrator, direct care staff, licensee, and members of household; provision of names of employee, volunteer, or member of household on parole or probation or convicted of felony; food service staff.</p>	<p>licensee who has multiple facilities AND multiple serious quality of care violations in those facilities yet each facility "stands alone." It seems after a while, a licensee who has had multiple serious resident deaths, injuries etc. should be held responsible even if those incidents occur in multiple facilities yet owned by the same licensee.</p>
35	<p>AFC Family Homes R 400.1401 to R 400.14101</p> <p>R 1400.1418-Resident Medications.</p> <p>AFC Small Group Homes R 400.14101 to R 400.14601</p> <p>R 14312 Resident medications.</p> <p>AFC-Large Group Homes</p>	<p>The licensing rules for Adult Foster Care Family Homes are very lax. I believe family homes should be held to the same requirements as small group homes.</p> <p>R 400.14312, R 400.15312, R 400.1418 Resident medications should be updated to specifically include medical and recreational marijuana usage.</p>

ID	Guidelines	Comments
	R 400.15312 Resident Medications.	
39	N/A	Well, I didn't select inadequate, but I would like to comment in general that many of the administrative rules are ambiguous and not up to date with current trends and need to be revised. It is my understanding that my Bureau has a committing working on revising our rules. I submitted several suggestions to them of rules that need to be reviewed and revised.
40	<p>(Editor note: Respondent referenced as Administrative Rules but is referencing Statue)</p> <p>MCL 400.713 (7)</p> <p>MCL 400.703(4)</p>	<p>R400.713(7)- A license shall be issued to a specific person for a specific location, is non-transferable, and remains the property of the department. The prohibition against transfer of a license to another location does not apply if a licensee's adult foster care facility or home is closed as a result of eminent domain proceedings, if the facility or home, as relocated, otherwise meets the requirements of this act and the rules promulgated under this act.</p> <p>In regard to R400.713(7), I think that language needs to be added to this rule that clearly states that if a licensee were to submit an application to change the LLC/name of facility/and license number to an already licensed facility, that as long as the owners are the same for both LLC's then the disciplinary history does not get erased and is transferred to the new license. There is an AFC licensee that has changed the name and license numbers of multiple facilities, and the citations and/or disciplinary history fell off as a result.</p> <p>R400.703(4)- Definition of "adult foster care facility"</p> <p>In regard to the definition of adult foster care, I have noticed that while working in this field that there are some "Adult Foster Care Facilities" that work with a population of individuals whose needs are so great on a day-to-day basis, that the staff that work in these facilities are not sufficiently trained to handle the behaviors. This leads to an increase in investigations, high staff turnover, injuries to residents and staff. I think there needs to be a type of licensed facility that falls outside of the definition of "Adult Foster Care" that will have its own set of rules to ensure that staff that are</p>

ID	Guidelines	Comments
		being hired have the necessary background skills and education. They can have physical plant rules that are specific to the health and safety of individuals with high behaviors, etc.
46	<p>AFC Large Group Homes</p> <p>R 400.15313 - Resident Nutrition.</p> <p>R 400.15204 -Direct care staff; qualifications and training.</p>	<p>R 400. 15313 Resident Nutrition (2). This rule requires that they use the book that is no longer in print. The printed documents we use are dated 2008, and 2013. Why can't these be updated?</p> <p>R 400. 15204 Direct care staff; qualifications and training. (3). Staff are trained in (c) Cardiopulmonary resuscitation and they are required to start CPR when the resident is on Hospice, and the resident has Do No Resuscitate document. AFC's are not medical facilities with no licensed personnel, but this seems to violate the rights of the resident. It is very upsetting to the resident, their family members and the staff, especially if they have chosen to receive Hospice care. Hospice does not initiate CPR.</p>
47	N/A	Guidelines are clear.