

ADULT FOSTER CARE FAMILY HOME TECHNICAL ASSISTANCE MANUAL

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Bureau of Community and Health Systems (BCHS)

ADULT FOSTER CARE LICENSING DIVISION

STATE OF MICHIGAN
Department of Licensing and Regulatory Affairs (LARA)

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TABLE OF CONTENTS

LICENSING RULES FOR ADULT FOSTER FAMILY HOMES

PART I: ADULT FOSTER CARE FAMILY HOMES

GENERAL PROVISIONS

R 400.1401 Definitions	
R 400.1402 License application fee	
R 400.1403 License and applicant rights	
R400.1404 Licensee, responsible person, and member of the household; qualifications	
R400.1405 Health of a licensee, responsible person, and member of the household.....	
R 400.1406 Ratio of responsible persons to residents	
R 400.1407 Resident admission and discharge criteria; resident assessment plan; resident care agreement; house guidelines; fee schedule; physician's instructions; health care appraisal	
R 400.1408 Resident care; licensee responsibilities	
R 400.1409 Resident rights; licensee responsibilities	
R 400.1410 Resident protection	
R 400.1411 Resident behavior management; general requirements	
R 400.1412 Resident behavior management; prohibitions	
R 400.1413 Resident behavior management; time-out restriction; time-out reporting	

R 400.1414 Resident behavior management; use of physical restraint, physical restraint report.....	
R 400.1415 Resident behavior management; chemical restraint restriction; chemical restraint report.....	
R 400.1416 Resident health care	
R 400.1417 Absence without notice	
R 400.1418 Resident medications	
R 400.1419 Resident nutrition	
R 400.1420 Resident hygiene	
R 400.1421 Handling of resident funds and valuables	
R 400.1422 Resident records.....	
R 400.1423 Resident recreation.....	
R 400.1424 Environmental health	
R 400.1425 Food service	
R 400.1426 Maintenance of premises.....	
R 400.1427 Living space	
R 400.1428 Dining space	
R 400.1429 Room temperature	
R 400.1430 Bathrooms	

R 400.1431 Bedrooms generally

R 400.1432 Bedroom space; “usable floor space” defined.....

R 400.1433 Bedroom furnishings

R 400.1434 Linens

R 400.1442 Exemption from rules

ADULT FOSTER CARE FAMILY HOMES GENERAL PROVISIONS

R 400.1401 Definitions.

Rule 1. (1) As used in these rules:

- a) “Act” means Act No. 218 of the Public Acts of 1979, as amended, being S400.701 et seq. of the Michigan Compiled Laws.

Administrative Rule and Statutory Cross Reference

MCL 400.710 Rules; variances, modification, or change; purposes; restrictions; review.

- b) Capacity” means the maximum number of residents for which a home is licensed.

Administrative Rule and Statutory Cross Reference

MCL 400.703(5) Adult Foster Care Family Home means

400.729 Providing foster care to a person related

400.713(5) Maximum number of persons

Rule 400.1401(1)(I) Resident

400.1406(2) Ratio; number of occupants

- c) “Chemical restraint” means the use of any drug or chemical in an emergency situation to limit activity or aggressiveness of a resident where such activity or aggressiveness would be harmful to the resident, other persons, or property.

Administrative Rule and Statutory Cross Reference

R400.1415 (1 – 4) Resident behavior management; chemical restraint

- d) “Designated representative” means that person or agency which has been granted the authority to act on behalf of the resident by the resident or which is the legal guardian of that resident.

TECHNICAL ASSISTANCE: Pursuant to the adult foster care rules, a resident may appoint a designated representative. A designated representative often assumes many responsibilities and interacts with the resident and AFC home on a regular basis. The scope of the designated representative’s authority is established in the AFC rules. In general, if a resident appoints a designated representative, it does not take away the resident’s right to make his/her own decisions. Limited exceptions may exist for court-appointed guardians and/or other persons acting with lawful authority.

The following references to the AFC licensing rules better illustrate the possible role of a designated representative.

- ***provide necessary intake and health care information as well as facilitate receipt of a health care appraisal. Rule 400.1407(9) and 400.1422(1)(a)(iv).***
- ***assist with the completion of a written assessment plan at the time of admission. Rule 400.1407(3) and 400.1413(1).***
- ***review and approve a written resident care agreement at the time of admission and at least annually thereafter. Rule 400.1407(5)(6).***
- ***Receipt of notices from the licensee such as notice of:***
- ***incident, accident, death, illness or absence. Rule 400.1416(4) and Rule 400.1417(1)(a)(3).***
- ***discharge or emergency discharge. Rule 400.1407(12)(14)(15)(17).***
- ***property remaining on the licensee's premises after discharge or death. Rule 400.1421(12).***
- ***occurrence of fire and property damage of more than \$100. Rule 400.1426(13).***
- ***use of repeated or prolonged crisis intervention. Rule 400.1414(4)(6).***
- ***use of time-out. Rule 400.1413(4).***
- ***use of chemical restraint. Rule 400.1415(5).***

Receipt of documents if not contained in the Resident Care Agreement such as the:

- ***house guidelines. Rule 400.1407(10).***
- ***fee policy. Rule 400.1407(11).***
- ***resident rights. Rule 400.1409(1)(2).***
- ***change of residency of resident and provide written consent if appropriate. Rule 400.1407(15).***
- ***admission and discharge policies. Rule 400.1407(3)(5)(6)(9)(10)(11)(12) (14)(15)(17).***

Handling of resident funds and valuables as required by rule 400.1421(1)(6)(7)(9)(11)(12).

Again, the designated representative generally has a limited scope of authority and may not violate in any way a resident's rights as protected by rule 400.1409(1).

Administrative Rule and Statutory Cross Reference

Rule 400.1407 (3)(5)(6)(9)(10)(11)(12)(14)(15)(17) - Resident admission

400.1409 (1)(2) - Resident Rights

400.1413 (1)(4) - Resident behavior management; time out

400.1414 (4)(6) - Resident behavior management; physical restraint

400.1415 (5) - Resident behavior management; chemical restraint

400.1416 (4) - Resident health care

400.1417 (1)(a)(3) - Absence without notice

400.1421 (1)(6)(7)(9)(11)(12).- Resident funds and valuables

400.1422 (1)(a)(iv) - Resident records

- e) “Health care appraisal” means a licensed physician’s or registered nurse’s statement which provides an assessment of the general physical condition of a resident.

Administrative Rule and Statutory Cross Reference

Rule 400.1407 (9) - Resident admission and discharge
400.1416 (2) - Resident health care
400.1422(d)(i)- Resident records

- f) “Home” means an adult foster care family home.
- g) “House guidelines” means those guidelines established by the licensee which constitute expectations for resident conduct.

Administrative Rule and Statutory Cross Reference

Rule 400.1407 (10) - Resident admission and discharge; house guidelines

- h) “Members of the household” means all persons living in the home, exclusive of residents.

Administrative Rule and Statutory Cross Reference

Rule 400.1404 (5)(6)(7)(9) - Licensee, responsible person, and member of the household qualifications
400.1405 (1) - Health of licensee, responsible person, and member of the household
400.1406 (1)(2) - Ratio
400.1407 (2)(c) - Resident admission and discharge

- i) “Occupants” means all persons living in the home.

Administrative Rule and Statutory Cross Reference

Rule 400.1401 (1)(b) – Capacity
400.1401 (1)(l) – Resident
400.1406 (2) – Number of occupants
400.1412 (1) – Prohibitions
400.1421 (8) - Resident funds
400.1427 - Living space
400.1428 - Dining space
400.1430 (3)(4) - Bathrooms
400.1438 (5) - Emergency preparedness
400.1439 (2) - Means of egress

- j) “Physical restraint” means the bodily holding of a resident with no more force than is necessary to limit the resident’s movement.

Administrative Rule and Statutory Cross Reference

Rule 400.1412 (2) - Resident behavior, prohibitions

400.1414 (1-5) - Resident behavior; physical restraint

- k) "Premises" means the facility, grounds, and all other appurtenances.

Administrative Rule and Statutory Cross Reference

Rule 400.1410 - Resident protection

400.1424 (3)(4) - Environmental health

400.1426 (1) - Maintenance of premises

- l) "Resident" means an adult, as defined in section 3 of the act, who, because of mental illness, developmental disability, physical handicap, or aged condition, requires and receives foster care in an adult foster care family home and who does not require continuous nursing care.

- m) "Responsible agency" means a public or private organization which, upon written agreement with a resident or the resident's designated representative, provides 1 or more of the following:

- i. Preplacement and placement services.
- ii. Assessment planning or the establishment of an individual plan of service.
- iii. Maintenance of ongoing follow-up services while the resident is in the home.

Administrative Rule and Statutory Cross Reference

Rule 400.1407 (10 -12) (14) (15) - Resident admission and discharge

400.1413 (1 - 4) - Behavior management, time-out

400.1414 (4) (6) - Behavior management, physical restraint

400.1416 (4) - Resident health care

400.1417 (1) (3) - Absence without notice

400.1426) - Maintenance of premises

- n) "Responsible person" means the licensee or adult designated by the licensee to provide foster care to residents.

Administrative Rule and Statutory Cross Reference

Rule 400.1404 - Licensee, responsible person, and member of the household; qualifications

400.1405 (1) (3) - Health of a licensee, responsible person, and member of the household

400.1406 (1) - Ratio

400.1412 (2) - Behavior management, prohibitions

400.1415 (2) - Resident behavior, chemical restraint

400.1417 (1) - Absence without notice

400.1418 (4) - Resident medications

400.1421 - Resident funds and valuables

- o) "Street floor" means any story or floor level which is accessible from the street or from outside the building at grade and which, at the main entrance, is not more than 21 inches above nor more than 12 inches below street or grade level at those points, or a floor which is so arranged and used as to qualify as the main floor.

Administrative Rule and Statutory Cross Reference

Rule 400.1431 (7) Bedrooms

- p) "Substantial risk" means that a resident's behavior poses a serious imminent threat of bodily harm to himself or herself or others or the destruction of property and that the resident is capable of carrying out such harm or destruction.

Administrative Rule and Statutory Cross Reference

Rule 400.1407 (13) (a) (b) (c) - Resident admission and discharge

400.1414 (a) (b) (c) - Physical restraint

- q) "Time-out" means a behavior management technique employed to reduce undesired behavior by separating a resident from his or her surroundings when the undesired behavior occurs.

Administrative Rule and Statutory Cross Reference

Rule 400.1412 (2) (c) - Prohibitions

400.1413 (1-4) - Time out

400.1414 - Physical restraint

- r) "Trust fund" means money or property set aside as a trust for a resident for the benefit of a resident and held for safekeeping by a licensee.

Administrative Rule and Statutory Cross Reference

Rule 400.1421 (4 - 6) - Resident funds and valuables

(2) Terms defined in the act have the same meanings when used in these rules.

Administrative Rule and Statutory Cross Reference

MCL400.703 - Definitions; A

400.704 - Definitions; C to F

400.705 - Definitions, G to N

400.706 - Definitions; P to Q

400.707 - Definitions; R to T

R 400.1402 License application fee.

Rule 2. A \$15.00 license application fee shall accompany an original license application and a license renewal application for an adult foster care family home. The fee shall be nonrefundable.

TECHNICAL ASSISTANCE: An application cannot be enrolled until an application fee has been received. A license fee is not transferable to another application. Licensing application fees are established by the legislature. The fees charged are different than reflected in this Rule: because the statute has been amended since these rules were written.

Administrative Rule and Statutory Cross Reference:
MCL 400.713a (1) Fees

R 400.1403 Licensee and applicant rights.

Rule 3. (1) A licensee or an applicant shall have the right to be treated with courtesy, dignity, and fairness by the adult foster care licensing division staff of the department and shall not be discriminated against on the basis of race, religion, color, national origin, sex, age, handicap, marital status, or source of funding.

(2) The department shall provide a licensee or an applicant with written notice regarding appeal rights as provided by Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, and the act, when there is official notification of the intent to take an adverse action against an applicant or a licensee.

(3) A licensee or an applicant shall be informed of, and shall have the right to bring to the attention of the supervisor of the licensing representative, any alleged misapplication of enforcement of regulations by a licensing representative or any substantial differences of opinion as may occur between the licensee or the applicant and any licensing representative concerning the proper application of the act or these rules. A meeting with the supervisor shall be afforded upon request. This subrule notwithstanding, the licensee or the applicant may contact any other official of the department regarding issues relating to the licensing activities of the department. Any contact with the supervisor or any other departmental official shall not result in any retaliation by the licensing representative.

(4) All written communications scheduled and unscheduled visits, routine licensing investigations and complaint investigations shall be conducted according to department policy and the provisions of the act.

(5) A licensee or an applicant may request, under the provisions of Act No. 442 of the Public Acts of 1976, as amended, being S15.231 et seq. of the Michigan Compiled Laws, copies of department policies or other documents governing the licensing activities of the department.

(6) A licensee or an applicant shall be afforded the opportunity to have a conference with the licensing representative before the conclusion of a routine licensing investigation or complaint investigation and, as soon as practicable thereafter, shall receive a written

response indicating the findings of the licensing representative or any other licensing official.

(7) A licensee or an applicant shall have the right to review a licensing study report in which refusal to renew, revocation, or denial of license issuance is being recommended, before that report is finalized, except in situations where the department finds cause to invoke a summary suspension action. The licensee or the applicant shall have the right to submit a written response within 15 calendar days to the licensing study report. The final licensing study report shall include the licensee's or the applicant's written response, and the response shall be considered a part of the official record and shall be subject to disclosure under the provision of Act No. 442 of the Public Acts of 1976, as amended, being S15.231 et seq. of the Michigan Compiled Laws.

(8) A licensee or an applicant shall have the right to provide a written response to the findings of the licensing representative or other department official in the event of a licensing investigation report or a complaint investigation report. Unless otherwise requested by the licensee or the applicant, in writing, the written response shall become a part of the department's official licensing record and shall be public information according to the provisions of Act No. 442 of the Public Acts of 1976, as amended, being S15.231 et seq. of the Michigan Compiled Laws and the act. (9) A licensee or an applicant may request, in writing, a declaratory ruling as to the applicability of a rule as provided in section 63 of Act No. 306 of the Public Acts of 1969, as amended, being S24.263 et seq. of the Michigan Compiled Laws and the act.

(9) A licensee or an applicant may request, in writing, a declaratory ruling as to the applicability of a rule as provided in section 63 of Act No. 306 of the Public Acts of 1969, as amended, being S24.263 et. Seq. of the Michigan Compiled Laws and the act.

(10) The department shall provide advice and technical assistance to the licensee or the applicant to assist the licensee in meeting the requirements the act and these rules. The department shall offer consultation upon request in developing methods for the improvement of service.

(11) The department shall provide a licensee or an applicant with a written copy of the rights outlined in subrules (1) to (10) of this rule at the time of license application or license renewal.

TECHNICAL ASSISTANCE: The licensing consultant is to comply with the department's policy and procedures related to adverse actions and appeal rights. The licensing consultant is to conduct an exit conference with the licensee or their designee at the conclusion of all licensing inspections or investigations. The licensing consultant is required by statute to provide rules that will assist the licensee in meeting or demonstrating compliance.

Administrative Rule and Statutory Cross Reference:

MCL 400.709 (2) Technical assistance, consultation

R 400.1404 Licensee, responsible person, and member of the household; qualifications.

- Rule 4. (1) A licensee and responsible person shall not be less than 18 years of age.
(2) A responsible person shall be other than a resident.

TECHNICAL ASSISTANCE: Under no circumstances shall a resident or minor child be responsible for the care or supervision of adult foster care residents.

- (3) A licensee or responsible person shall possess all of the following qualifications:

- (a) Be of good moral character to provide for the care and welfare of the residents.

TECHNICAL ASSISTANCE: A Licensing Record Clearance Request form must be completed and submitted by all applicants and non-employee responsible person(s). BCAL will process all completed Licensing Record Clearance Request Forms. The criminal history results must be reviewed, and a determination made of good moral character by the Bureau prior to license issuance. Any change in the non-employee responsible person(s) requires the completion and processing of a Licensing Record Clearance Request form. The applicant/licensee is responsible for assessing the good moral character of employees. The licensee must also complete a background check on all employees to comply with MCL 400.734b.

Administrative Rule and Statutory Cross Reference

MCL 400.705(1) Good moral character

400.713(3) (c)(e) Good moral character

400.734b Background checks of direct access employees

Rule 400.1404(3)(a)(b) Good moral character; suitability

400.1151(1)(2), 400.1152(1)-(6), and 400.1153 Good moral character rules

- (b) Be suitable to meet the physical, emotional, social, and intellectual needs of each resident.

TECHNICAL ASSISTANCE: Suitability means that there is no physical, mental, emotional, behavioral, personal, or other current or historical reason for being unable to care for adults. Examples of information that the Department uses for establishing suitability are references, medicals, tuberculin tests, consultant observation, criminal history checks, previous licensing history, if applicable, and so forth.

Administrative Rule and Statutory Cross Reference

MCL 400.713(3) (d) physical and emotional ability of applicant and person responsible

- (c) Be capable of appropriately handling emergency situations.

TECHNICAL ASSISTANCE: The licensee or responsible person must have the physical and mental capability to implement emergency procedures for fire, weather, environmental, and medical emergencies to protect the safety and welfare of residents.

Maintaining a current CPR and First Aid certification from the American Heart Association, Red Cross or other nationally recognized organization, may prepare the licensee or responsible person to better handle emergency situations. However, a current CPR and First Aid certification is not required.

Administrative Rule and Statutory Cross Reference

Rule 400.1438 Emergency preparedness for homes licensed after March 27, 1980

400.2261 Emergency preparedness for homes licensed on or before March 27, 1980

(4) A licensee shall have sufficient financial resources to provide for the adequate care of the family and residents.

TECHNICAL ASSISTANCE: The licensing consultant is to follow the Division's policy and procedures regarding financial stability and capability.

Financial Resources Cross Reference

AFC Licensing Manual Item 530 – Determining Financial Stability and Capability of Adult Foster Care Applicants and Licensees.

Administrative Rule and Statutory Cross Reference

MCL 400.713 (3) Financial stability

(5) All responsible persons and members of the household shall be of good moral character and suitable temperament to assure the welfare of residents.

TECHNICAL ASSISTANCE: A Licensing Record Clearance Request form must be completed and submitted by all non-employee responsible persons and members of the household. Licensing record Clearance Request forms will be processed in the same manner as for applicants/licensees. Any change in the non-employee responsible person(s) or household members requires the completion and processing of a Licensing Record Clearance Request form. The applicant/licensee is responsible for assessing the good moral character and suitability of employees.

“Members of the household” means all persons living in the home, exclusive of residents. This includes room and boarders.

“Suitability” is to be determined in the same manner as for applicants/licensees.

NOTE: Responsible persons who are employees must have a background check completed in compliance with the Adult Foster Care Licensing statute.

Administrative Rule and Statutory Cross Reference

MCL 400.734b Background checks of employees

Rule 400.1401 (1)(h) – Members of the household

400.1406 (2) – Total occupants in a home

AFC Division Licensing Manual Item 515 – Determining good moral character

(6) A licensee shall provide the department with the name of any person providing care for a resident or member of the household who is on a court-supervised probation or parole or who has been convicted of a felony within the 5-year period before providing resident care.

TECHNICAL ASSISTANCE: *The licensee is responsible for notifying their licensing consultant when any member of the household, or person providing resident care, is on parole or probation, or has been convicted of a felony within the past 5 years. When a licensing consultant receives information cited in this sub-rule, a Licensing Record Clearance Request form is to be completed and processed on household members and non-employee responsible person(s). If the person is an employee, the licensing consultant is to verify compliance with 400.734b, or if an exempt employee, how the licensee determined good moral character and suitability of this individual.*

Administrative Rule and Statutory Cross Reference

MCL 400.734b Background checks for direct access employees

Rule 400.1401 (h) – Members of the Household

400.1406 (2) – Total Occupants in a Home

(7) A licensee shall require all members of the household and responsible persons who have been released from a public or private psychiatric hospital for less than 1 year to provide a written statement verifying the person's personal fitness to care for or be associated with a resident. The statement shall be obtained from the medical or administrative director of the public or private psychiatric hospital and shall be made available to the department.

TECHNICAL ASSISTANCE: *When a licensing consultant receives information cited in this subrule, the licensing consultant is to verify with the licensee that a suitability determination has been completed on this individual.*

Administrative Rule and Statutory Cross Reference

Rule 400.1404(3)(b) – Suitability

400.1405 (1) Physical and mental health

400.1401 (h) – Members of the Household

400.1406 (2) – Total Occupants in a Home

(8) A licensee shall have an arrangement with a responsible person who is available to provide care in an emergency situation for up to 72 hours.

TECHNICAL ASSISTANCE: *At the time of application and/or renewal, the consultant is to review the licensee's arrangement for a responsible person who is available to provide foster care to residents for up to 72 hours. This person must be identified on the original/renewal application. For all identified responsible persons, the licensing consultant is to confirm compliance with all rules related to*

suitability, good moral character, medical and TB verification and enter that responsible person's information on BITS.

When a licensee designates their spouse as their responsible person, the licensing consultant should caution the licensee regarding the availability of their spouse when an emergency does occur, on vacations, etc.

(9) A licensee, responsible person, or member of the household shall not be the legal guardian of a resident living in the home, except where a person is a relative or where the guardianship relationship existed before the promulgation of these rules.

R 400.1405 Health of a licensee, responsible person, and member of the household.

Rule 5. (1) A licensee, responsible person, and a member of the household shall be in such physical and mental health so as not to negatively affect either the health of the resident or the quality of his or her care.

TECHNICAL ASSISTANCE: The licensing consultant is to review the required medical statements verifying the health of persons identified in this Rule. The licensee is to submit a new statement of the health of a responsible person or household member whenever there is a change. If the consultant has reason to question the physical or mental capability of any of these individuals, new medical statements or additional documentation may be required. Additional documentation could include a psychological/psychiatric evaluation, drug screening, etc.

Note: It is not the intent of Family Home Rule R400.1405 to require that members of the household who are under 18 years of age have a routine physical.

(2) A licensee shall have on file with the department a statement signed by a licensed physician or his or her designee with regard to his or her knowledge of the physical health of the licensee and each responsible person. The statement shall be signed within 6 months before the issuance of a license and at any other time requested by the department.

TECHNICAL ASSISTANCE: The signed medical statement for these individuals must be maintained in the Department's facility file. A sample Medical Clearance form is available on the AFC/HFA website.

(3) A licensee shall provide the department with written evidence that he or she and each responsible person in the home is free from communicable tuberculosis. Verification shall be within the 3-year period before employment and verification shall occur every 3 years thereafter.

TECHNICAL ASSISTANCE: *The licensee is to provide documentation to the licensing consultant that the licensee and all responsible persons are free from TB. This can be accomplished by TB testing, x-ray, screening, an assessment or physical exam completed by the person's physician or local health authority. If the disease is present, the licensee is to submit written documentation from his or her licensed physician or the local health authority verifying that treatment is being implemented or completed and that the residents in the home are not at risk.*

Administrative Rule and Statutory Cross Reference

MCL 400.713 (3) (d) Physical and emotional ability of applicant and responsible person

R 400.1406 Ratio of responsible persons to residents.

Rule 6. (1) The ratio of responsible persons to residents shall not be less than 1 responsible person to 6 residents and 2 children under the age of 12 years or ratio thereof.

TECHNICAL ASSISTANCE: *"Ratio thereof" means any combination of residents and children under the age of 12 that does not exceed 8, per responsible person. If this combination exceeds 8, an additional responsible person would be needed. However, the number of residents cannot exceed the home's licensed capacity.*

(2) The number of occupants in a home, other than the licensee and the licensee's spouse, shall not exceed 10 persons.

TECHNICAL ASSISTANCE: *"Occupants" as defined in rule 400.1401(1) (i) means all person(s) living in the home, including room and board individuals. Room and boarders are also considered adult members of the household. If room and boarders are receiving adult foster care services, they must be considered residents and counted in the licensed capacity. Room and boarders will only be permitted if there is no local zoning ordinance prohibiting room and boarders. Room and boarders must comply with all requirements related to household members.*

(3) This rule does not apply to those adult foster care family home **applicants** or licensees who applied for a license or who were issued a license before the promulgation of these rules. History: 1984 MR 8, Eff. Sept. 15, 1984.

TECHNICAL ASSISTANCE: *Rule 400.1406 (1 and 2) does not apply to homes that applied for or were licensed prior to September 15, 1984.*

R 400.1407 Resident admission and discharge criteria; resident assessment plan; resident care agreement; house guidelines; fee schedule; physician's instructions; health care appraisal.

Rule 7. (1) A licensee shall not accept, retain, or care for a resident who, in accordance with a licensed physician's medical diagnosis and opinion, requires continuous nursing care. This does not preclude the accommodation of a resident who becomes temporarily ill while in the home, but who does not require continuous nursing care.

TECHNICAL ASSISTANCE: The Department of Community Health has agreed with the Bureau of Children and Adult Licensing that "continuous nursing care" is defined as requiring a nurse to be present at all times because the individual needs constant nursing assessments, judgments and/or interventions. This does not preclude the provision of licensed hospice care. Regardless of a resident's condition, the licensee and responsible persons must be able to meet the needs of all residents, including emergency evacuation from the home.

Administrative Rule and Statutory Cross Reference

MCL 400.703(4) – Adult Foster Care facility means

400.726a (1)(a) – Resident enrolled in licensed hospice program

(2) A licensee shall not accept or retain a resident for care unless and until a written assessment plan is made and it is determined that the resident is suitable pursuant to the following provisions:

- a) The amount of personal care, supervision, and protection required by the resident is available in the home.
- b) The kinds of services and skills required of the home to meet the resident's needs are available in the home.
- c) The resident appears to be compatible with other residents and members of the household.

Administrative Rule and Statutory Cross Reference

MCL 400.703(9) – Assessment

400.706(1) – Personal care

400.706(4) – Protection

400.707 – Supervision

Rule 400.1404 (3)(a-c) - Licensee or Responsible person

TECHNICAL ASSISTANCE: The consultant is to determine whether a written assessment plan was completed by the licensee before the resident's admission to the home. The admission date should be available in the resident record. The intent of this rule is to enable the licensee to make an informed decision regarding the appropriateness of accepting or retaining a resident for placement in the home prior to the resident's admission.

Though the BCAL-3265, Assessment Plan for Adult Foster Care Residents, complies with these rules and statutory requirements, other written assessments may be used if it contains all components of this rule. A person-centered plan may or may not fulfill all requirements contained in these rules.

(3) In situations where a resident is referred for admission, the written assessment plan shall be conducted in conjunction with the resident or the resident's designated representative, the responsible agency, and the licensee. A licensee shall maintain a copy of the resident's written assessment plan on file in the home.

TECHNICAL ASSISTANCE: *The consultant is to review the written assessment plan to determine if the licensee, resident, or their designated representative, and responsible agency participated in the development of the assessment plan, and that the assessment plan reflects the needs of the resident. Signatures of the licensee, resident and/or resident's representative and responsible agency, if applicable; demonstrate that all required persons have participated in the development of the written assessment plan. If the responsible agency refuses to sign the resident's written assessment plan, this should be noted on the assessment plan.*

Though not required, a new written assessment plan should be completed at least annually or revised when needed, to accurately describe each resident's current needs.

Administrative Rule and Statutory Cross Reference

MCL 400.703 (9) - Assessment plan

Rule 400.1433 – Resident records

(4) In situations where a resident is referred for emergency admission and the licensee agrees to accept the admission, a written assessment plan shall be conducted within 15 calendar days following the emergency admission. The written assessment plan shall be conducted in accordance with the provisions outlined in subrules (2) and (3) of this rule.

TECHNICAL ASSISTANCE: *“Emergency admissions” are those admissions when a resident requires immediate placement into an AFC without the advantage of comprehensive pre-placement planning. If the licensee accepts a resident for admission then determines they are unable to meet the resident's needs, they must comply with the discharge criteria contained in sub rules 12-17 of this rule. An APS placement is one example of an emergency admission.*

The reason for the emergency admission should be contained in the resident's assessment. The licensing consultant should caution the licensee against accepting an emergency admission without completing at least an initial assessment plan.

(5) At the time of a resident's admission, a licensee shall complete a written resident care agreement which shall be established between the resident or the resident's designated representative, the responsible agency, and the licensee. A department form shall be used unless prior authorization for a substitute form has been granted in writing by the department. A resident shall be provided the care and services as stated in the written resident care agreement.

TECHNICAL ASSISTANCE: *The consultant is to review each Resident Care Agreement to determine whether the agreement was completed at the time of the resident's admission. Resident care agreements must contain all the required signatures, dates, and required information as outlined in these rules.*

Note: *If the responsible agency refuses to sign the Resident Care Agreement, this needs to be noted on the Resident Care Agreement.*

A Resident Care Agreement and a contract between a licensee and contracting agency are two separate and distinct contracts, each with its own purpose and function. A Resident Care Agreement is a contract between the resident or resident's designated representative, the licensee, and the responsible agency, if any, and details the responsibilities of each.

A contract between a licensee and a contracting agency (e.g., DCH, CMH, VA, etc). is between these two entities and may not serve as a substitute for or in place of a Resident Care Agreement. The 7-07 edition or any subsequent edition of the AFC – Resident Care Agreement (BCAL-3266) may be used.

Additional agreements or contracts between the licensee and the resident/resident's designated representative attached to the 2010 revision of the Resident Care Agreement (BCAL-3266) or subsequent revisions, are not to be reviewed or approved/disapproved by licensing consultants, unless critical to the investigation of a complaint. These editions of the BCAL-3266 include a statement that nullifies any specific part of an attachment that conflicts with the statute or administrative rules.

A licensee whose substitute Resident Care Agreement form was received or approved in writing on or before May 6, 2009, may continue to use that specifically approved substitute. Revisions to a previously approved substitute form are not allowed unless minor in nature and approved by the assigned AFC licensing consultant. No new substitute Resident Care Agreement forms will be accepted for review or approval. The consultant is to review the resident record to determine that a Resident Care Agreement form has been completed.

(6) A licensee shall review the written resident care agreement with the resident or the resident's designated representative and responsible agency at least annually or more often if necessary.

TECHNICAL ASSISTANCE: *The consultant is to review the annual review date and signatures on the Resident Care Agreement form to ensure it is updated annually and whenever there is any change in the Resident Care Agreement. At the time of the annual review and whenever the Resident Care Agreement is completed, the licensee is to provide the resident and/or designated representative with a copy of a newly completed Resident Care Agreement. If*

there are no changes to the Resident Care Agreement, the form may be re-signed and dated by all required parties during the annual review.

(7) A licensee shall contact a resident's physician for instructions as to the care of the resident under the following conditions:

- a) If the resident is under the care of a physician at the time of the resident's admission to the home.
- b) If the resident requires the care of a physician while living in the home.

TECHNICAL ASSISTANCE: A resident "under the care of a physician" is one who is currently being seen by a licensed physician and for whom ongoing medical care is necessary. The information shall be obtained from a licensed physician or his or her designee. The BCAL 3947 – Health Care Appraisal form may be used for this purpose.

(8) A licensee shall record in the resident's record the physician's instructions for the care of the resident as required in subrule (7) of this rule.

TECHNICAL ASSISTANCE: The intent of this rule is to ensure that a resident's health care needs are being documented and addressed. The consultant is to review the resident record to determine if the licensee has recorded the physician's instructions.

(9) If a resident is not under the care of a physician at the time of the resident's admission to the home, the licensee shall require that the resident or the resident's designated representative provide a written health care appraisal completed within the 90-day period before the resident's admission to the home. If a written health care appraisal is not available, a licensee shall require that the appraisal be obtained not later than 30 days after admission. A department form shall be used unless prior authorization for a substitute form has been granted in writing by the department.

TECHNICAL ASSISTANCE: The BCAL 3947 – Health Care Appraisal form is to be used for this purpose. At the time of admission, a medical discharge summary signed by an appropriate health care professional, is acceptable in lieu of the BCAL-3947. However, the medical discharge summary must contain all the health care information that is required on the BCAL-3947.

(10) A licensee may establish house guidelines. House guidelines, if established, shall be provided in writing to the resident or the resident's designated representative and responsible agency upon admission to the home or, if established after a resident's admission to the home, immediately thereafter. House guidelines shall not conflict with these rules.

TECHNICAL ASSISTANCE: "House guidelines" are those house rules written by the licensee related to such areas as conduct in the home, personal hygiene and

grooming, housekeeping standards, restrictions regarding smoking, mealtimes, resident participation in food preparation, bedtime, recreation and visitation hours that residents agree to follow while residing in the home. If a licensee has any such restrictions or expectations, they must be put in writing, explained and provided to each resident.

(11) A licensee shall provide a resident or his or her designated representative and responsible agency with a statement of the fee policy at the time of admission. A fee statement shall include all of the following:

- a) A description of services to be provided and the fee.
- b) A description of additional costs above the basic fee policy.
- c) A description of the transportation costs in the basic fee structure and the transportation which is provided at extra cost.

TECHNICAL ASSISTANCE: The completed and current Assessment Plan for AFC Residents (BCAL-3265) or its equivalent, and/or the licensee's description of basic and additional services and their corresponding fees, may be cross-referenced on or attached to the Resident Care Agreement (BCAL-3266) and are acceptable for compliance with sections (a) (b) and (c).

The licensee is responsible for "assuring transportation services" which may or may not be included in the basic fee, as long as that is specified in the Resident Care Agreement. Regardless of how transportation is provided or paid for, the licensee must "assure" transportation is available if it is needed even for residents with SSI income: a family member or volunteer may provide it, a resident may be capable of utilizing public transportation, or the licensee may provide it, but it must be available if needed by a resident.

DHS budget boilerplate Sec. 608 states that adult foster care facilities providing domiciliary care or personal care to residents receiving supplemental security income shall not require those residents to reimburse the home or facility for care at rates in excess of those legislatively authorized. To the extent permitted by federal law, adult foster care facilities and homes for the aged serving residents receiving supplemental security income shall not be prohibited from accepting third-party payments in addition to supplemental security income provided that the payments are not for food, clothing, shelter, or result in a reduction in the recipient's supplemental security income payment.

Complaints related to the amount a licensee is charging an SSI recipient should be referred to the resident's responsible agency.

(12) A licensee shall provide a resident with a 30-day written notice before discharge from the home. The written notice shall state the reasons for discharge. A copy of the written notice shall be sent to the resident's designated representative and responsible agency.

TECHNICAL ASSISTANCE: This 30-day written notice is required only when it is the licensee's decision that the resident leave the home. The licensee is to keep a copy of the written notice of discharge in the resident records.

(13) A licensee may discharge a resident before the 30-day notice when it has been determined that any of the following exists:

- a) Substantial risk or an occurrence of self-destructive behavior.
- b) Substantial risk or an occurrence of serious physical assault.
- c) Substantial risk or an occurrence of destruction of property.

Administrative Rule and Statutory Cross Reference

R400.1401 (1)(p) - Definition of "substantial risk"

(14) A licensee who discharges a resident pursuant to subrule (13) of this rule shall notify the resident's designated representative and responsible agency within 24 hours before discharge. Such notification shall be followed by a written notice to the resident's designated representative and responsible agency stating the reasons for discharge.

TECHNICAL ASSISTANCE: To demonstrate compliance, a copy of the notice for discharge is to be maintained in the resident record.

(15) A licensee shall not change the residency of a resident from one home to another without the written approval of the resident or the resident's designated representative and responsible agency.

(16) A licensee shall not establish any policies that restrict the resident's ability to make his or her own living arrangements.

TECHNICAL ASSISTANCE: Actions of the licensee that restrict a resident's ability to make their own living arrangements will be considered a "policy" even if unwritten.

(17) At the time of discharge, a licensee shall provide copies of resident records to the resident and his or her designated representative when requested and as determined appropriate by the resident or his or her designated representative. A fee charged for copies of resident records shall not exceed the cost to the licensee for making the copies available.

TECHNICAL ASSISTANCE: BCAL considers resident records required by administrative rules to be the property of the licensee and are to be retained by the licensee for 2 years after the date of discharge from the home.

Administrative Rule and Statutory Cross Reference

Rule 400.1409 (1) (a-p) - Resident rights; licensee responsibilities

400.1407 (5)- Resident admission and discharge

400.1422 - Resident records

MCL 400.704(6) - Definition of foster care

400.706(1) (4) - Definition personal care and protection

400.707(7) - Definition of supervision

R 400.1408 Resident care; licensee responsibilities.

Rule 8. (1) A licensee shall provide basic self-care and habilitation training in accordance with the resident's written assessment plan.

TECHNICAL ASSISTANCE: MCL 400.703(9) "Assessment Plan" means a written statement prepared in cooperation with a responsible agency or person that identifies the specific care and maintenance, services, and resident activities appropriate for each individual resident's physical and behavioral needs and well-being and the methods of providing the care and services taking into account the preferences and competency of the individual.

A resident's specific habilitation training and self-care needs are to be documented in the written assessment plan. Specific licensee responsibilities include helping the resident learn to do, what he or she can do, and doing for a resident what he or she cannot do.

A Hospice Service Plan for a resident who is enrolled in a licensed hospice program which includes a do-not-resuscitate order, or any other form of advance directive should be included as an addendum to the resident's assessment and maintained with the assessment plan in the resident's record.

(2) A licensee shall assure the availability of transportation services.

TECHNICAL ASSISTANCE: The licensee is to transport or is to make specific provisions for other acceptable means of transportation for the resident, as agreed upon in the Resident Care Agreement.

(3) A licensee shall provide the following when specified in the resident's written assessment plan:

- a) Direction and opportunity for the growth and development of a resident which are achieved through activities which foster independent functioning, such as dressing, grooming, manners, shopping, cooking, money management, and use of public transportation.

TECHNICAL ASSISTANCE: The specific services provided are to be identified in a resident's written assessment plan. The licensing consultant, through observation and interview, is to determine what the licensee is doing to assure that these requirements are being met according to the resident's assessment plan.

Administrative Rule and Statutory Cross Reference

Rule 400.1408(4) (c) (d) Resident care; licensee responsibilities

- b) Opportunity for involvement in educational, employment, and day program opportunities.

TECHNICAL ASSISTANCE: *The consultant is to review the resident's written assessment plan to identify what educational employment, and day program opportunities are and will be provided. The consultant should, through interview and observation, determine what the licensee is doing to fulfill the requirements of this rule.*

(4) A licensee shall provide all of the following:

- a) Opportunity for the resident to develop positive social skills.

TECHNICAL ASSISTANCE: *Through interview and observation of the home, the consultant is to determine whether the home is encouraging positive social skills.*

- b) Opportunity for the resident to have contact with relatives and friends.

TECHNICAL ASSISTANCE: *Opportunity for contacts with friends, relatives and receive visitors in the home at a reasonable time is to be provided. Any restrictions on visitation must be included in the assessment plan and agreed to by the resident, resident's designated representative, or guardian.*

A licensee may establish house guidelines that govern the conduct of residents and visitors in the home, provided such guidelines are not in violation of applicable licensing regulations. If there are no limits placed on the activities of residents, the licensee is still responsible for assuring the safety and protection of residents from social, moral, and financial exploitation, as defined in MCL 400.706(4) and MCL 400.407(7).

- c) Opportunity for community-based recreational activities.

TECHNICAL ASSISTANCE: *Community activities should be encouraged for residents who may be interested and capable of participating.*

- d) Opportunity for privacy and leisure time.
- e) Opportunity for religious education and attendance at religious services of the resident's religious faith.

TECHNICAL ASSISTANCE: *Residents are to be afforded the opportunity to attend religious services and education of their choice, though religious participation cannot be required of residents. The consultant should, through observation and interview, determine whether religious preferences are honored. The consultant*

is to review the resident assessment plan to determine that religious preferences have been addressed.

Administrative Rule and Statutory Cross Reference Rule 400.1407(5) Resident admission and discharge 400.1408 (1-4) Resident care; licensee responsibilities.

R 400.1409 Resident rights; licensee responsibilities.

Rule 9. (1) Upon a resident's admission to the home, the licensee shall inform and explain to the resident or the resident's designated representative all of the following resident rights:

TECHNICAL ASSISTANCE: The consultant is to confirm with the licensee that he/she has informed, explained, and provided a copy of these Resident Rights to the resident. Any restrictions and/or limits to a resident's rights must be agreed upon by the resident and/or his/her legal guardian, and stated in writing in the resident's assessment plan and/or resident care agreement. Neither a designated representative nor a responsible agency has the authority to restrict a resident's rights, unless also agreed to by the resident or the resident's guardian. The exercise of these rights does not abrogate the licensee's responsibility to provide personal care, protection, and supervision to the resident, as defined in MCL 400.706(1)(4) and MCL 400.707 (7)(a-d).

- a) The right to be free from discrimination against the provision of services on the basis of race, religion, color, national origin, sex, age, handicap, marital status, or source of payment.

TECHNICAL ASSISTANCE: "Source of payment" refers to Supplemental Security Income, private pay, social security, etc. The intent of referencing "Source of payment" is to assure that residents are treated equally, including the basic services provided, regardless of source of payment. This does not preclude the provision of additional services for additional compensation.

- b) The right to exercise his or her constitutional rights, including the right to vote, the right to practice the religion of his or her choice, the right to freedom of movement, and the right of freedom of association.

TECHNICAL ASSISTANCE: Those individual rights defined by the constitution can only be altered by court order. Though these rights cannot be waived, they can be restricted as agreed upon in the written assessment plan, by the resident or resident's guardian.

Freedom of movement includes egress from the home/premises. Bedrails that restrict a resident's freedom of movement are a violation of this Rule;, unless they are being used as an assistive device, or the resident is still able to get out of the bed independently.

Administrative Rule and Statutory Cross Reference

Rule 400.1412 Prohibitions

400.1416 Resident health

- c) The right to refuse participation in religious practices.

TECHNICAL ASSISTANCE: Religious participation cannot be required of residents.

- d) The right to write, send, and receive uncensored and unopened mail at his or her own expense.
- e) The right of reasonable access to a telephone for private communications. A licensee may charge a resident for long distance telephone calls. A pay telephone shall not be considered as meeting this requirement.

TECHNICAL ASSISTANCE: The intent of this rule is to assure that a home has a telephone that is accessible to residents and affords privacy. If a resident has their own personal phone, the home is still required to have a facility phone available for resident use. A facility phone that may also be used for business purposes must also be available to residents at reasonable times of the day. If the facility's only phone is a cell phone, it must be available for residents' use.

Local calls are at the expense of the licensee regardless of type of phone. If a licensee charges a resident for his/her long distance and toll calls, the charges are only to be for the actual cost of these calls. A copy of the phone bill is to be attached to the BCAL-2319 Resident Funds Part II form.

Administrative Rule and Statutory Cross Reference

Rule 400.1438 requirement for facility phone

See Rule 400.1421 (10) charges

- f) The right to voice grievances and present recommendations pertaining to the policies and services of the home without fear of retaliation. A resident shall be informed of the home's complaint process.

TECHNICAL ASSISTANCE: Through interview with the licensee and residents, the consultant needs to determine the home's complaint process. The home must ensure protection of the individual from any form of reprisal or intimidation as a result of a complaint or grievance reported by an individual, including investigations conducted by BCAL. If the resident files a complaint or grievance in writing to the licensee, it is to be maintained in the resident's record.

Administrative Rule and Statutory Cross Reference

See Rule 400.1422(1)(j) Resident records

- g) The right to associate and have private communications and consultations with his or her physician, attorney, or any other person of his or her choice.

TECHNICAL ASSISTANCE: The licensee may not restrict or discourage such communications or associations, unless otherwise indicated in the resident's written assessment plan, and agreed to by the resident or the resident's guardian.

- h) The right to participate in the activities of social, religious, and community groups at his or her own discretion.

Administrative Rule and Statutory Cross Reference

Rule 400.1408 (4) (c) and (e) Resident care, licensee responsibilities

- i) The right to use the services of advocacy agencies and to attend other community services of his or her choice.

Administrative Rule and Statutory Cross Reference

Rule 400.1408 (4) (d) and (e) Resident care; licensee responsibilities

- j) The right of reasonable access to and use of his or her personal clothing and belongings.

TECHNICAL ASSISTANCE: The written assessment plan must address any restrictions to access of personal clothing or belongings and be agreed upon by the resident or his/her guardian. Residents should not be prohibited from access to their personal possessions because of the behavior of others.

- k) The right to have contact with relatives and friends and receive visitors in the home at a reasonable time.

TECHNICAL ASSISTANCE: Privacy must be provided for visitation. The licensee through the establishment of house guidelines may describe unacceptable visitor behavior that may result in visitation restrictions. Any resident specific restrictions must be addressed in and agreed to in the resident's written assessment plan.

A licensee may require identification from visitors to ensure the protection of residents.

Administrative Rule and Statutory Cross Reference

Rule 400.1408 (4) (b) Written assessment plan

400.1409(1)(g) Right to privacy

- l) The right to employ the services of a physician, psychiatrist, or dentist of his or her choice for obtaining medical, psychiatric, or dental services.

TECHNICAL ASSISTANCE: *The consultant should consider whether the use of a single service provider is for the convenience of the licensee rather than the choice of the resident.*

- m) The right to refuse treatment and services, including the taking of medication, and to be made aware of the consequences of that refusal.

TECHNICAL ASSISTANCE:

All instances of resident refusals of treatment and services, including medical treatment (i.e., psychiatric, taking of medication, etc.), should be reported to the resident's physician or pharmacist.

Cardiopulmonary resuscitation (CPR) is specifically meant for individuals whose hearts have stopped beating and/or individuals who are not breathing normally, or not breathing at all. It is not appropriate to perform CPR on an individual whose heart and breathing are still functioning.

A Do Not Resuscitate (DNR) order is a legal medical order that instructs individuals, including AFC licensees, responsible persons and staff members, not to perform CPR, if the resident stops breathing or their heart stops and that resident is wearing a do-not-resuscitate identification bracelet or that individual has notice of the resident's do-not-resuscitate order in accordance with [MCL 333.1061 \(3\)](#).

The [Do-Not-Resuscitate Procedure Act](#) defines "resuscitate" as performing cardiopulmonary resuscitation or a component of cardiopulmonary resuscitation, including, but not limited to, any of the following:

- (i) Cardiac compression.***
- (ii) Endotracheal intubation or other advanced airway management.***
- (iii) Artificial ventilation.***
- (iv) Defibrillation.***
- (v) The administration of a cardiac resuscitation medication.***
- (vi) Another related procedure.***

Note: Providing abdominal thrusts (formally known as the Heimlich Maneuver) is not considered resuscitation. Use of NARCAN for a suspected drug overdose is also not considered resuscitation as it is given when a resident is still breathing (although it may be shallow breaths that are difficult to detect).

AFC homes must honor DNR orders.

The AFC home must:

- 1. Identify residents who have a valid DNR***

- **Verify authenticity (signatures, form date, expiration)**
- 2. Have DNR orders immediately accessible if a crisis occurs**
- 3. Inform all responsible persons and staff of DNRs and include DNR status in residents' AFC assessment plans as required by administrative licensing rule R400.1407(2).**

Start CPR if the resident is unresponsive and does not have a DNR:

- 1. Is not breathing, or only gasping (agonal breathing=abnormal, ineffective breaths).**
- 2. Has no pulse**

Call 911 immediately, or instruct someone else to call, and begin CPR right away.

Do NOT start CPR if the resident:

- 1. Is conscious and talking or moving**
- 2. Is breathing normally, even if unconscious**
- 3. Has a pulse and is breathing normally**
- 4. Has a valid DNR order pursuant to the Michigan Do-Not-Resuscitate Procedure Act (even if the resident is unresponsive, does not have a pulse and/or is not breathing)**

Make the resident comfortable, and call 911 to report the situation.

If the resident has a verified DNR and experiences respiratory or cardiac arrest, AFC licensees, responsible persons, and/or staff members should calmly advocate comfort measures (monitoring, positioning), immediately call 911, and refrain from CPR in accordance with Michigan law and the AFC Facility Licensing Act. If the resident is enrolled in a licensed hospice program and has a DNR included in their AFC assessment plan, the AFC home may directly contact the hospice provider instead of emergency first responders.

It is suggested that licensees:

- 1. Audit current residents: verify and record DNR status in assessment plans**
- 2. Educate responsible persons and staff members on legal definitions and procedures via annual training**
- 3. Simulate mock emergency drills to practice DNR response protocols**
- 4. Update documentation, such as notification logs**
- 5. Communicate with resident families, guardians, and/or responsible agencies about DNR policies and practices**

MICHIGAN DO-NOT-RESUSCITATE PROCEDURE ACT 193 of 1996

[http://www.legislature.mi.gov/\(S\(iyflyerfuvyv0px104io0o2w\)\)/documents/mcl/pdf/mcl-Act-193-of-1996.pdf](http://www.legislature.mi.gov/(S(iyflyerfuvyv0px104io0o2w))/documents/mcl/pdf/mcl-Act-193-of-1996.pdf)

1998 Michigan Attorney General opinion # 6986,

Administrative Rule and Statutory Cross Reference

Rule 400.1407(2) (a-c) Suitability of placement

400.1409(1)(m)

400.1416(1) Resident health care

400.1418(4) (a) (b) Resident medication

MCL 400.726a (2) Hospice

- n) The right to request and receive assistance from the responsible agency in relocating to another living situation.

Administrative Rule and Statutory Cross Reference

Rule 400.1407(15) (16) Resident admission and discharge

- o) The right to be treated with consideration and respect, with due recognition of personal dignity, individuality, and the need for privacy.

TECHNICAL ASSISTANCE: Consultants, licensees and their staff are not to discuss individual resident matters in front of other residents; pay close attention to a resident's right to privacy.

Administrative Rule and Statutory Cross Reference

Rule 400.1412(1) (2) Prohibitions

MCL 400.712(3) Confidentiality

- p) The right of access to his or her room at his or her own discretion.

(2) A licensee shall provide the resident and the resident's designated representative with a written copy of the rights outlined in subrule (1) of this rule upon a resident's admission to the home.

R 400.1410 Resident protection.

Rule 10. A licensee or responsible person shall always be on the premises when a resident is in the home.

TECHNICAL ASSISTANCE: An adult foster care home need not provide a responsible person in the home during the day if residents are involved in supervised daytime activities. However, the licensee is prohibited from requiring residents to be absent from the home during the day due to the lack of

supervision. If a resident wants or needs to return to the home, a licensee or responsible person must be present.

Administrative Rule and Statutory Cross Reference

Rule 400.1409(1) (p) resident's right to access to their room

400.1412 (2) (f) Refusing resident entrance to the home

**R 400.1411 Resident behavior management; general requirements.
Rule 11.**

(1) A licensee shall ensure that methods of behavior management are positive and relevant to the needs of the resident.

(2) Methods of behavior management shall encourage cooperation, self-esteem, self-direction, and independence, and shall be administered in accordance with a resident's written assessment plan.

TECHNICAL ASSISTANCE: Behavior management refers to techniques used to modify inappropriate resident behavior. Behavior management may include language, actions, rules, regimen, and other types of interactions between the licensee, responsible persons and the resident. A resident's behavior management plan is to be considered part of a resident's written assessment plan. Even if a resident's behavior management plan has been developed and approved by a mental health professional, it still must comply with AFC rules related to behavior management.

R 400.1412 Resident behavior management; prohibitions.

Rule 12. (1) A licensee shall not mistreat or permit the mistreatment of a resident by responsible persons or other occupants of the home. Mistreatment includes any intentional action or omission which exposes a resident to a serious risk of physical or emotional harm.

TECHNICAL ASSISTANCE: Yelling at or hitting residents, using abusive language, verbal intimidation, or threatening residents are examples of behavior that a licensee may not use or permit responsible persons or other occupants to use.

Failure to intervene if a resident is being hit, sworn at, or threatened by a responsible person or other occupant constitutes mistreatment of a resident. Neglecting a resident's physical or emotional needs also constitutes mistreatment, by omission.

Use of bedrails may expose a resident to a serious risk of physical or emotional harm. When consultants find bedrails in use they must determine, not only is its

use safe, but is it being used as an assistive device or to restrain a resident's movements.

An assistive device is defined in R 400.14102 (e) as "an item such as a pillow or pad or medically supplied therapeutic support that is intended to achieve or maintain the proper position, posture, or balance of a resident."

A device used solely for the purpose of restricting a resident's movement is not an assistive device and is prohibited.

Some devices commonly found in AFC's include:

- ***Positioning pillows/equipment***
- ***Bedrails***
- ***"Gerri" chairs***
- ***Soft vests/ties***
- ***Harnesses***
- ***Orthotic body devices***
- ***Lap belts or trays***
- ***Arm or leg restraints***
- ***Posey restraints***

The consultant, through interview, record review, and observation, is to determine:

- ***Are any of the devices, such as those listed above, being used?***
- ***How and why is the device being used?***
- ***Is it being used as an assistive device or a restraint?***
- ***Has staff been trained in the proper use, application and maintenance of the device?***
- ***Has staff been trained in the proper care and supervision of the resident when the device is in use?***

Note: Use of a half bed rail is generally preferred over a full bed rail. A full bed rail may be a potential restraint, if it is a means of confinement, and may pose a serious risk of harm. (See Attachment).

The following probes can be used to determine if the item is a restraint or an assistive device:

- ***Can the resident remove or release the device? (Assistive Device)***
- ***Would the resident harm himself/herself if the device was not used? (Assistive Device)***

For example:

- ***A harness to maintain an upright position while sitting in a wheelchair to prevent positional asphyxiation.***
- ***A lap belt for residents without torso control to prevent falling out of a wheelchair.***
- ***Time-limited use of posey/arm/leg restraints to prevent injury to surgical wound.***
- ***Does the device prevent the resident from getting up and wandering around when the injury is not an issue? (Restraint)***
- ***Does the device appear to be for the convenience of staff, rather than for the protection of the resident? (Restraint)***
- ***Does the device increase the resident's independence? (Assistive Device)***
- ***When a device is used, there must be a plan of supervision developed by the licensee; to assure that:***
 - ***The resident can obtain staff assistance as needed***
 - ***Staff provide routine visual monitoring of the resident.***

Administrative Rule and Statutory Cross Reference

Rule 400.14102 (1) (e) Assistive device

400.1407 Resident admission and discharge

400.1433 (3) Beds

400.1426 (1) Premises maintained

400.1416 (1) Resident healthcare

(2) A licensee, responsible person, or any person living in the home shall not use any of the following methods of handling a resident for discipline purposes:

- a) Any form of severe punishment or physical force.
- b) Restricting a resident's movement by binding or tying.
- c) Confining a resident in an area such as a closet, locked room, box, or similar cubicle.
- d) Withholding necessary food, rest, or toilet use.
- e) Mental or emotional cruelty, including subjecting a resident to verbal abuse, making derogatory remarks about the resident or members of his or her family or making malicious threats.
- f) Refusing the resident entrance to the home.

I. Hazards Created by Improperly Positioned Bed Rails/Mattresses/Beds

The following hazards related to improperly positioned bed rails, mattresses, or beds have been identified. It is recommended that the following be considered during inspections:

- ***A gap may be created if the mattress or mattress pad is ill-fitted or out of position. The resident may become asphyxiated if the resident slips***

into the gap with their face pressed against the mattress and is unable to extricate themselves.

- ***Rail and in-bed entrapment can occur when a side rail releases with the resident's head lodged between side rail bars resulting in compression of the resident's neck and throat.***
- ***Rail and off-bed entrapment can occur when a small person is trapped in the space between the mattress and headboard, mattress and footboard, or a resident could slide out of bed and become trapped between the raised side rail and the bed frame.***
- ***Increased risk of serious injury or death also occurs when the resident's size and/or weight are inappropriate to the bed's capacity or dimensions.***

II. Inspection of Bed Rails/Mattresses/Beds

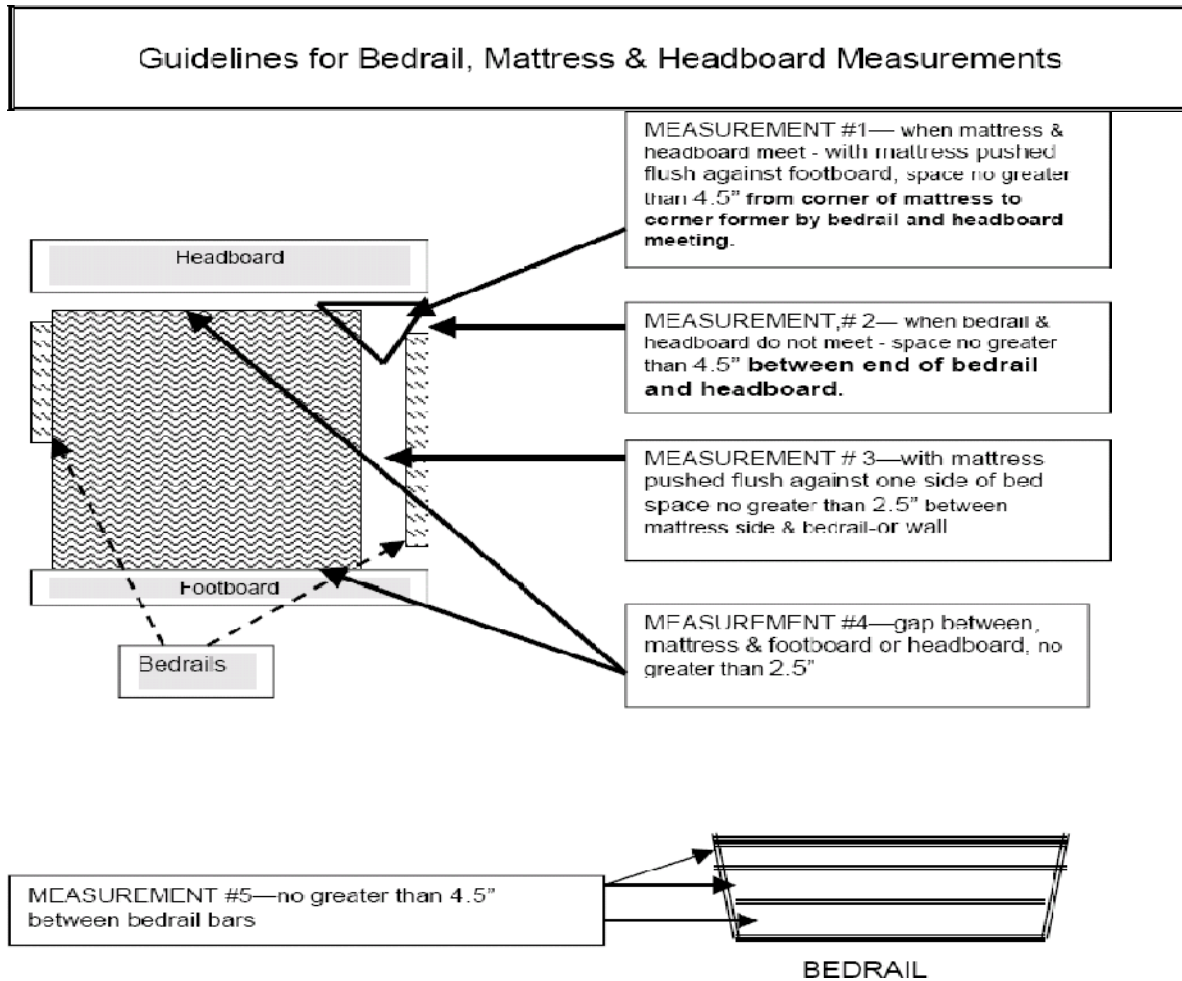
It is recommended that only bed rails which were designed and sold for use in health care facilities and that meet the following criteria be used:

- ***The bed rail is mechanically sound, firmly attached to the bed frame, and the latches are in good working order.***
- ***The distance between the slats (the horizontal or vertical supports between the perimeter of the rail itself) or the bed rail is small enough to prevent the resident's head/leg or arm, from becoming accidentally entrapped between the slats.***
- ***Bed rail protective barriers that do not obstruct the resident's view from the bed may be used to close off open spaces between the slats, e.g. netting or clear padding.***
- ***Padded bed rail covers that obstruct the resident's view may be used for residents who are prone to seizures or who are extremely agitated. The covers should be soft enough to prevent injury, but rigid enough to prevent a resident from becoming entrapped.***
- ***Any space between bed rail and mattress and between mattress and head or footboard is to be filled with foam wedges.***
- ***When the bed is occupied, the top surface of the mattress must be higher than the bottom of the bed rails.***

NOTE: Bed rails have to be used in accordance with the requirements of Rule 1400.14306. The licensee must document use of the bed rail in the assessment

plan and ensure that direct care staff are instructed in the use of bed rails as follows:

- **Bed and bed rail safety**
- **The risks and benefits of bed rail use**
- **Bed rail maintenance**



R 400.1413 Resident behavior management; time-out restriction; time-out reporting.

Rule 13. (1) A licensee shall not use time-out unless authorized, in writing, in the resident's written assessment plan, by the resident's designated representative and responsible agency.

TECHNICAL ASSISTANCE: *If a resident does not have a responsible agency, the licensee may not use timeout. "Time-out," as defined in Rule 400.1401(1) (q) means "a behavior management technique employed to reduce undesired behavior by separating a resident from his or her surroundings when the undesired behavior occurs."*

(2) A licensee shall not use time-out until he or she has successfully completed time-out training as required by the responsible agency.

TECHNICAL ASSISTANCE: *If required by the responsible agency, the licensee needs to be able to verify "time-out" training, and if not required, the licensee needs to be able to demonstrate that it is not required.*

(3) A licensee shall maintain a written record of each occurrence of time-out. The record shall include all of the following information:

- a) The nature of the time-out.
- b) The reason for time-out.
- c) The types of less restrictive alternatives which were tried.
- d) The name of the person authorizing the use of time-out.
- e) The times and dates time-out was used.

(4) A licensee shall make available reports of all uses of time-out when requested by the resident's designated representative, responsible agency, or the department.

R 400.1414 Resident behavior management; use of physical restraint, physical restraint report.

TECHNICAL ASSISTANCE: *If the licensee/responsible person accepts a resident into care who requires behavior management or physical restraint, training should be sought to assure the needs of the resident can be met.*

Rule 14. (1) Excluding those forms of behavior management prohibited in R 400.1412, physical restraint may be used when it has been determined that any of the following exists:

- a) Substantial risk or an occurrence of self-destructive behavior.
- b) Substantial risk or an occurrence of serious physical assault.
- c) Substantial risk or an occurrence of destruction of property.

TECHNICAL ASSISTANCE: *“Physical restraint” is defined in Rule 400.1401 (1)(j), as the bodily holding of a resident with no more force than is necessary to limit the resident’s movement. Physical restraint is not to be used for the convenience of the licensee/responsible person or in place of adequate supervision or protection.*

The licensing consultant is to review instances of physical restraint to determine if physical restraint was restricted to the minimum force necessary by the minimum number of persons, to keep a resident from an actual occurrence of self-destructive behavior, serious physical assault, or destruction of property.

(2) Physical restraint shall be used to the minimum extent and the minimum duration necessary, and then only after less restrictive means of protection have failed.

TECHNICAL ASSISTANCE: *In reviewing instance of physical restraint, the licensing consultant is to determine whether less restrictive means of protection including talking with a resident, asking others to leave the area, removing items which a resident has threatened to destroy, attempting to divert a resident from the threatened behavior, assisting the resident to another room, etc., were used prior to use of physical restraint.*

(3) Physical restraint shall be employed to allow the resident the greatest possible comfort and to avoid physical injury and mental distress.

TECHNICAL ASSISTANCE: *The person imposing the physical restraint is to constantly evaluate whether the continued use of physical restraint is necessary, e.g., relaxing a grip on the resident to see if the behavior outburst has subsided, or verbally asking the resident if he or she is feeling in better control.*

(4) If a resident requires the repeated and prolonged use of physical restraint or time-out within a 24-hour period, the licensee shall initiate a review process which includes all responsible persons and the resident’s designated representative and responsible agency to evaluate the need for a more intensive treatment setting.

TECHNICAL ASSISTANCE: *The purpose of reviewing a resident’s continued need for physical restraint or time-out by the licensee, resident’s designated representative and the responsible agency, is to assure that the resident is appropriately placed and receiving adequate care.*

Administrative Rule and Statutory Cross Reference
Rule 400.1407(2) Resident suitability

(5) All uses of physical restraint shall be noted in the resident’s record. This notation shall include all of the following information:

- a) The nature of the physical restraint used.

- b) The reason for the use of physical restraint.
- c) The types of less restrictive alternatives which were tried.
- d) The person authorizing the physical restraint.
- e) The times and dates physical restraint was administered.

TECHNICAL ASSISTANCE: BCAL-4607, Incident/Accident report may be used for the recording of the above requirements.

(6) A licensee shall make available reports of all uses of physical restraint when requested by the resident's designated representative, responsible agency, or the department.

R 400.1415: Resident behavior management; chemical restraint restriction; chemical restraint report.

Rule 15. (1) The use of a chemical restraint shall only be prescribed and authorized by a licensed physician.

TECHNICAL ASSISTANCE: "Chemical Restraint" as defined in Rule 400.1401 (1) (c) is the use of any drug or chemical in an emergency situation to limit activity or aggressiveness of a resident, where such activity or aggressiveness would be harmful to the resident, other persons, or property.

The licensing consultant is to verify that a resident is not given a drug to control behavior even in an emergency unless prescribed by a licensed physician.

(2) When a chemical restraint is administered by the licensee or responsible person, the licensee or responsible person shall contact the resident's physician within a reasonable period of time following the administration of the chemical restraint.

(3) A licensee shall initiate a review process as stated in R 400.1414 when a resident requires the repeated and prolonged use of a chemical restraint.

TECHNICAL ASSISTANCE: The purpose of reviewing a resident's continued need for chemical restraint by the licensee, resident's designated representative and the responsible agency, is to assure that the resident is appropriately placed and receiving adequate care.

Administrative Rule and Statutory Cross Reference

Rule 400.1407(2) Resident suitability

(4) All uses of a chemical restraint shall be noted in the resident's record. This notation shall include all of the following information:

- a) The type of chemical restraint used.
- b) The reason for the use of the chemical restraint.

- c) The types of less restrictive alternatives which were tried.
- d) The name of the physician who prescribed and authorized the chemical restraint.
- e) The time and date the chemical restraint was administered.

(5) A licensee shall make available reports of all uses of a chemical restraint when requested by the resident's designated representative, responsible agency, or the department.

TECHNICAL ASSISTANCE: BCAL-4607, Incident/Accident report may be used for the recording of the above requirements.

R 400.1416 Resident healthcare.

Rule 16. (1) A licensee, in conjunction with a resident's cooperation, shall follow the instructions and recommendations of a resident's physician regarding medications, special diets, and other resident healthcare needs that can be provided in the home.

TECHNICAL ASSISTANCE: Directions from a physician are to be carefully followed until specifically changed by the physician. Lack of cooperation by a resident or changes in the resident's condition should be brought to the attention of the physician for further specific instructions.

Therapeutic supports must be used according to a physician's instructions. The consultant is to review the resident record, including the written assessment plan, of a resident who is using assistive device/therapeutic support to assure that it is:

- ***Prescribed by a licensed physician.***
- ***Not a restraint.***
- ***Being used for the purpose prescribed and as documented in the assessment plan.***
- ***Being used by the person for whom it was prescribed.***
- ***Maintained in a safe condition.***
- ***Devices/Therapeutic supports used for residents who are DCH/CMH clients are to have documentation of review and approval by the responsible agency.***

A resident's refusal to follow health care related instructions and recommendations should be recorded in the resident's record. The record should reflect that the licensee has contacted the health care professional regarding this refusal and explained consequences to the resident.

(2) A licensee shall maintain a healthcare appraisal on file for not less than 2 years after the resident's admission to the home.

(3) A licensee shall record the weight of a resident on admission and then monthly after that. Weight records must be maintained for 2 years.

History: 1984 AACCS; 2023 MR 11, Eff. June 8, 2023.

R 400.1416a Incident notification, incident records. Rule 16a.

(1) If a resident has a representative identified in writing on the resident's care agreement, a licensee shall report to the resident's representative within 48 hours after any of the following:

- a) Unexpected or unnatural death of a resident.

TECHNICAL ASSISTANCE: *Expected and natural deaths of residents, including residents enrolled in a licensed hospice program and/or expected and natural deaths of residents that do not occur at the facility, do not require the submission of an incident report to the resident's identified representative.*

- b) Unexpected and preventable inpatient hospital admission.

TECHNICAL ASSISTANCE: *Any unexpected illness and/or accident that requires hospitalization, as referenced in this rule, means any unexpected and preventable sudden adverse change in a resident's condition or any preventable accident that resulted in an unplanned inpatient hospitalization. Hospitalization, as used in this rule, is not defined as an emergency room visit, but is defined as any time a resident is admitted to a hospital due to an unexpected and preventable illness or accident.*

- c) Physical hostility or self-inflicted harm or harm to others resulting in injury that requires outside medical attention or law enforcement involvement.
- d) Natural disaster or fire that results in evacuation of residents or discontinuation of services greater than 24 hours.
- e) Elopement from the home if the resident's whereabouts is unknown.

(2) If an elopement occurs, staff shall conduct an immediate search to locate the resident. If the resident is not located within 30 minutes after the elopement occurred, staff shall contact law enforcement.

(3) An incident must be recorded on a department-approved form and kept in the home for a period of not less than 2 years.

(4) The department may review incident reports during a renewal inspection or special investigation. This does not prohibit the department from requesting an incident report if determined necessary by the department. If the department does request an incident report, the licensee shall provide the report in electronic form within 24 hours after the request. The department shall maintain and protect these documents in accordance with state and federal laws, including privacy laws.

History: 2023 MR 11, Eff. June 8, 2023.

TECHNICAL ASSISTANCE: Substitute forms are permitted if prior authorization has been granted, via a rule variance approval.

R 400.1417 Rescinded.

History: 1984 AACCS; 2023 MR 11, Eff. June 8, 2023.

R 400.1418 Resident medications.

Rule 18. (1) Prescription medication, including tranquilizers, sedatives, dietary supplements, or individual special medical procedures, shall be given or applied only as prescribed by a licensed physician or dentist. Prescription medication shall be kept in the original pharmacy container which shall be labeled for the specific resident in accordance with the requirements of Act No. 368 of the Public Acts of 1978, as amended, being S333.1101 et seq. of the Michigan Compiled Laws.

TECHNICAL ASSISTANCE: The intent of this Rule: is to prohibit advance set-ups and to assure the correct medication is given to the correct resident, according to a physician's instructions. Requiring that medications be maintained in their original pharmacy container, prohibits the combining of prescription medications from one container to another, even if the same prescription.

Bubble packs or other pre-set container supplied by a pharmacy are an acceptable means to comply with this rule.

Physician supplied medication samples are allowable if the sample is accompanied by the physician's written instructions pertaining specifically to the resident to whom it was supplied.

When a resident is going to be away from the home with family or friends, a sufficient supply of medication is to be provided in a pharmacy labeled container, if at all possible.

(2) Medication shall be given pursuant to label instructions.

TECHNICAL ASSISTANCE: The pharmacy labeled container and medication log must be consistent with one another to assure medication is given according to instructions. The following procedures may assure that prescription medication is safely administered:

The right medication must be given to the right resident.

The medication must be given in the right amount.

The medication must be given at the right time.

The medication must be given by the right method.

(3) Unless a resident's physician specifically states otherwise, all the giving, taking, or application of prescription medications shall be supervised by the licensee or responsible person.

TECHNICAL ASSISTANCE: *A resident's physician statement approving a resident to self-medicate, and/or to transport medication, must be available in the resident's record, and the approval must be addressed in the resident's written assessment plan. Although a resident may self-medicate, the licensee has a responsibility to remind a resident to maintain his/her medication schedule as directed by the resident's physician, and assure that the medication is kept locked.*

Administrative Rule and Statutory Cross Reference
MCL 400.707(7) (a) Supervision; medications

(4) When a licensee or responsible person supervises the taking of medication by a resident, the licensee or responsible person shall comply with the following provisions:

- a) Maintain a record as to the time and amount of any prescription medication given or applied. Records of prescription medication shall be maintained on file in the home for a period of not less than 2 years.

TECHNICAL ASSISTANCE: *The licensing consultant, through interview with the licensee, is to review the procedures for the administration of medications. The medication records are also to be reviewed to determine that they are being completed according to the rule requirements, and application is consistent with the pharmacy label.*

BCAL-3267, Medication Record may be used for this purpose. Medication should be recorded as given at the time it is administered. It should not be recorded ahead of time or at a later time.

- b) Do not adjust or modify a resident's prescription medication without agreement and instructions from a physician or a pharmacist who has knowledge of the medical needs of the resident. A licensee shall record in writing any adjustments or modifications of a resident's prescription medication.

TECHNICAL ASSISTANCE: *If the licensing consultant observes that the pharmacy label instructions/dosage is different than that contained on the medication record, the licensing consultant is to verify documentation of the change with the licensee.*

(5) Prescription medication shall be kept in the original pharmacy-supplied and pharmacy-labeled container, stored in a locked cabinet or drawer, refrigerated if required, and labeled for the specific resident.

TECHNICAL ASSISTANCE: *Medication must remain locked, even if refrigerated.*

(6) A licensee shall take reasonable precautions to ensure that prescription medication is not used by a person other than the resident for whom the medication was prescribed.

TECHNICAL ASSISTANCE: *Medications kept by residents who self-medicate are to be kept in the original containers and in a locked container. When medication is removed from the pharmacy labeled container it must be administered immediately to the resident by the person removing the medication from the container. This does not preclude grouping any resident's medication(s) for immediate dispensing.*

Borrowing a resident's medication for another resident's or member of the household's usage is not allowed under any circumstances. If the consultant observes the presence of "excess" medication, the consultant is to bring this to the attention of the licensee for an explanation.

(7) Prescription medication which is no longer required by a resident shall be destroyed after consultation with a physician or a pharmacist.

TECHNICAL ASSISTANCE: *Borrowing a resident's medication for another resident's or member of the household's usage is not allowed under any circumstances. If the consultant observes the presence of "excess" medication, the consultant is to bring this to the attention of the licensee for an explanation.*

If the physician discontinues a resident's prescription medication or a resident moves, or is deceased, that resident's medications are to be destroyed. This precludes medications from being administered to other residents in error.

Through observation and interview, the consultant is to determine that procedures for the disposal of unused and/or discontinued medications are in place. The consultant should suggest the licensee consult with the pharmacist or physician regarding the establishment of a uniform and consistent policy of medication disposal.

R 400.1419 Resident nutrition.

Rule 19. (1) A licensee shall provide a minimum of 3 regular nutritious meals daily. Not more than 14 hours shall elapse between the evening and morning meal.

TECHNICAL ASSISTANCE: *A well-balanced nutritious breakfast, lunch, dinner (supper) is to be served daily. Snacks may be provided in addition to the required meals but are not to be substituted for meals.*

The licensing consultant, through interview of the licensee, responsible persons and residents, and observation of food supplies and meals served, is to determine that the home serves 3 regular nutritious meals.

(2) A licensee shall assure proper food preparation, serving, sanitation, and safety.

TECHNICAL ASSISTANCE: *The licensing consultant, through interview and observation, is to determine that food is free from an approved source and free of spoilage, adulteration, and misbranding. The licensing consultant, through observation and documentation, is to determine that food is stored, prepared, served or transported in a manner that protects it from contamination. If the licensing consultant has questions about possible contamination, he/she may contact the local health authority for Rule.*

All foods intended for human consumption within the facility must be adequately protected against contamination from any source. Properly prepared and stored home canned or frozen food items may be served to residents.

Containers of food are to be stored at least six inches above the floor, on clean racks, dollies, or other clean surfaces, in such a manner as to be protected from splash and other contamination.

Potentially hazardous food is any perishable food which consists in whole or in part of milk and milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxic microorganisms. Provisions should be such as to protect all food against contamination.

Containers of food must not be stored directly below sewer or cold-water pipes unless effectively designed leak deflector troughs are installed under the pipes to prevent contamination by sewage leakage or water condensation on the containers of food. The licensee is also not to store food or food service utensils under sink drains.

Light bulbs located above food preparation, food storage (including refrigerators) and washing facilities must be covered to protect against breakage.

Food stored in a refrigerator or freezer must be covered. Individual portions of food once served to a resident are not to be served again.

Anyone handling food should:

- **Always work with clean hands, clean hair, clean fingernails, and wears clean clothing.**
- **Wash hands with soap and water after using the toilet or assisting anyone using the toilet.**
- **Wash hands with soap and water after smoking or blowing nose.**
- **Wash hands with soap and water after touching raw meat, poultry or eggs, before working with others' foods.**

- ***Avoid using hands to mix foods when clean utensils can be used.***
- ***Keep hands away from mouth, nose and hair.***
- ***Cover coughs and sneezes with disposable tissues.***
- ***Avoid using the same spoon more than once for tasting food while preparing, cooking, or serving.***
- ***Use latex/plastic gloves if he/she has an open skin cut, wound, or infection.***

It is recommended, though not required, that animal products be slaughtered and/or processed by a commercial food processor. Frozen food items should be labeled and dated.

(3) Meals shall meet the nutritional allowances recommended under the “Suggested Daily Eating Guide” section, which is adapted from the “United States Department of Agriculture’s Daily Food Guide (1979),” and based upon the “Recommended Dietary Allowances (1980),” and contained in the publication entitled “Basic Nutrition Facts,” pages 28 and 29, Michigan department of public health publication no. H-808, 1980. This publication may be obtained without charge from Nutrition Services, Bureau of Personal Health Services, Michigan Department of Public Health, P.O. Box 30035, Lansing, Michigan 48909.

TECHNICAL ASSISTANCE: If the licensing consultant questions whether meals are balanced, one way to determine compliance would be to consult with local health authorities or county extension services.

(4) Special diets shall be prescribed only by a physician. A resident who has a special diet prescribed by a physician shall be provided such a diet.

TECHNICAL ASSISTANCE: Special dietary requirements indicated on the resident’s health care appraisal, or otherwise prescribed by a physician, need to be maintained in the resident’s record to assure that the special diet is followed.

Special diets include, but are not limited to, weight reduction plans, diabetic diet plans, low sodium, low carbohydrate, gastric tube feedings, or modification of food consistency, and the like.

R 400.1420 Resident hygiene.

Rule 20. (1) A licensee shall afford a resident the opportunity for daily bathing.

(2) A licensee shall afford a resident facilities for daily shaving.

(3) A licensee shall afford a resident opportunities to obtain haircuts, hair sets, or other grooming processes.

(4) A licensee shall afford a resident opportunities, and instruction when necessary, to dress as fashion and season warrant.

(5) A licensee shall afford a resident who is capable, opportunities or instructions when necessary, to routinely launder clothing. Clean clothing shall be available at all times.

TECHNICAL ASSISTANCE: *To determine compliance, the consultant is to review the resident's assessment plan to evaluate whether the resident's needs are being met, as specified in the resident's assessment plan.*

A resident should not be required to launder the home's laundry, though a resident may do their own laundry, if not to be required to do so. The licensee is to assure that clean clothing is available.

(6) A licensee shall afford a resident the opportunity to receive assistance in bathing, dressing, or personal hygiene from a member of the same sex, unless otherwise stated in the home's admission policy and written resident care agreement.

TECHNICAL ASSISTANCE: *The licensing consultant is to review Resident Care Agreements for verification of compliance with this rule.*

R 400.1421 Handling of resident funds and valuables.

Rule 21. (1) A licensee may accept a resident's funds and valuables for safekeeping, to be held in trust with the licensee, upon request from a resident or the resident's designated representative.

(2) All resident funds and valuables which have been accepted by a licensee for safekeeping shall be treated by the licensee as a trust obligation.

TECHNICAL ASSISTANCE: *The licensing consultant is to determine through interview and review of the "Resident Care Agreements" and "Resident Funds Part I" forms whether the licensee has agreed to manage and/or accept into safekeeping resident funds and valuables.*

If a resident or resident's designated representative requests a licensee to manage the resident's funds or valuables, the licensee has the option to refuse that request. The "Resident Funds Part I" and the "Resident Care Agreement" forms are to state whether or not the licensee has agreed to manage resident funds.

"Resident Funds" held for safekeeping by the licensee are any monies, securities, bonds, or stocks that are received by a licensee from, or on behalf of, a resident. Monies include payment for adult foster care services, personal allowance, and/or monies in accounts with financial institutions. This does not include contract monies received from a CMH authority for specialized services.

"Valuables" means personal property of a resident, held or stored by the licensee, including jewelry, furniture, electronic equipment, appliances, or clothing items not maintained by the resident.

(3) A licensee shall have a resident's funds and valuables transaction form completed and on file for each resident. A department form shall be used unless prior authorization for a substitute form has been granted in writing by the department.

TECHNICAL ASSISTANCE: *The licensing consultant is to inspect resident records to determine that resident funds and valuables transaction forms have been completed for each resident. The BCAL-2318 – resident Funds Part I and the BCAL-2319 – Resident Funds Part II forms are the required department forms.*

Any substitute forms approved by the consultant are to be maintained in the licensing record. The BCAL–2319A Authorization for a Substitute To: AFC-Resident Funds and Valuables Part II is to be used by licensing consultants as a tool to determine if a proposed substitute for the BCAL-2319 meets administrative requirements, and to communicate to the licensee approval or disapproval of the proposed substitute form. As an example, licensees frequently prefer to utilize computer software in lieu of using the “Resident Funds Part II” form.

The BCAL-2319 – Resident Funds Part II form is to be used to record and account for resident care payments as well as residents’ personal monies.

(4) All resident funds and trust fund accounts shall be kept separate and apart from all funds and monies of the licensee.

TECHNICAL ASSISTANCE: *A licensee cannot commingle their funds with residents’ funds.*

(5) Except for trust fund accounts, a licensee shall not accept for safekeeping money and valuables exceeding a value of \$200.00 for any resident in the home. Trust fund accounts between the licensee and the resident are subject to a \$1,500.00 limitation.

TECHNICAL ASSISTANCE: *Compliance with this Rule: can be demonstrated by documentation maintained on the Resident Funds Part II forms, resident cash on hand, bank statements or bank books, or other documentation of resident funds maintained. The total combined value of money and valuables kept in the home for a resident by the licensee may not be over \$200. Trust fund means money or property set aside as a trust for a resident for the benefit of a resident and held for safekeeping by a licensee, such as a bank account.*

Administrative Rule and Statutory Cross Reference

Rule 400.1401(1)(r) Trust Fund

(6) All trust fund account transactions shall require the signature of the resident or the resident’s designated representative and the licensee or prior written approval from the resident or resident’s designated representative.

TECHNICAL ASSISTANCE: *The required signatures for trust fund account transactions are to be maintained on the Resident Funds Part II form, unless specified in the Resident Care Agreement.*

(7) A resident's account shall be individual to the resident. A licensee shall be prohibited from having any ownership interest in a resident's account and shall verify such in a written statement to the resident or the resident's designated representative.

TECHNICAL ASSISTANCE: *For purposes of this rule, "account" includes bank accounts, securities, bonds, etc., that are received by the licensee from a resident. The licensing consultant is to review the resident record to determine the presence of a completed BCAL-2318 – Resident Funds Part I form and Resident Care Agreement.*

(8) A licensee, responsible person, and members of the licensee's or responsible person's family shall not borrow money or valuables from a resident, with or without the consent of the resident. A licensee shall further take reasonable precautions to assure the prohibition of financial transactions between a resident and other occupants of the home.

(9) A licensee shall obtain prior written approval from a resident and his or her designated representative before charges are made to a resident's account.

TECHNICAL ASSISTANCE: *The consultant is to review the "Resident Care Agreement" and the Resident Funds Part II" form to determine that appropriate charges and accounting are being maintained.*

(10) Charges against the resident's account shall not exceed the agreed price for the services rendered and goods furnished or made available by the home to the resident.

TECHNICAL ASSISTANCE: *The licensing consultant is to review the "Resident Funds Part II" and the "Resident Care Agreement" to determine that only authorized charges have been made against the resident's account.*

BOILERPLATE FROM THE DHS BUDGET: *Adult foster care facilities providing domiciliary care or personal care to residents receiving supplemental security income or homes for the aged serving residents receiving supplemental security income shall not require those residents to reimburse the home or facility for care at rates in excess of those legislatively authorized. To the extent permitted by federal law, adult foster care facilities and homes for the aged serving residents receiving supplemental security income shall not be prohibited from accepting third-party payments in addition to supplemental security income provided that the payments are not for food, clothing, shelter, or result in a reduction in the recipient's supplemental security income payment.*

Concerns regarding payments about the Supplemental Security Income payment may be referred to the Social security Administration, or adult services workers.

(11) A licensee shall provide a complete accounting of all resident funds and valuables held for safekeeping and in trust fund accounts or paid to the home to the resident or to his or her designated representative on a quarterly basis. A receipt for resident expenditures shall be maintained by the licensee and shall be provided to the resident or

designated representative upon request. The accounting of a resident's funds and valuables held for safekeeping or paid to the home shall also be provided, upon the resident's or designated representative's request, not later than 5 banking days following the request and at the time of the resident's discharge from the home.

TECHNICAL ASSISTANCE: Residents' funds records are to be inspected to determine that the licensee has maintained an accounting of resident funds, and has a method by which quarterly accountings to residents are made. The licensing consultant shall review receipts for resident fund expenditures to assure they correspond to charges identified on the "Resident Funds Part II" form.

(12) A licensee shall return the full amount of funds and valuables remaining in the account to the resident or his or her designated representative not later than 5 banking days following the request or date of discharge.

(13) A licensee shall report the death of a resident in writing to the public administrator of the Michigan Department of Attorney General, 1800 Michigan Plaza Building, 1200 Sixth Street, Detroit, Michigan 48226, not later than 10 calendar days following the death of the resident.

Note: This rule requirement is no longer enforceable due to the fact that the content of the rule is obsolete.

Administrative Rule and Statutory Cross Reference

Rule 400.416(4) Reporting requirements.

R 400.1422 Resident records.

Rule 22. (1) A licensee shall complete and maintain a separate record for each resident and shall provide record information as required by the department. A resident record shall include, at a minimum, all of the following information:

- a) Identifying information, including, at a minimum, all of the following:
 - i. Name.
 - ii. Social security number.
 - iii. Home address.
 - iv. Name, address, and telephone number of the next of kin or designated representative.
 - v. Name, address, and telephone number of person or agency responsible for the resident's placement in the home.
 - vi. Name, address, and telephone number of the preferred physician and hospital.
- b) Date of admission.
- c) Date of discharge and place to which resident was discharged.
- d) Health care information, including all of the following:
 - i. Health care appraisals.

- ii. Medication logs.
- iii. Statements and instructions for supervising prescribed medication.
- e) Instructions for emergency care.
- f) Resident care agreement.
- g) Assessment plan.
- h) Weight record.
- i) Incident and accident reports.
- j) Resident funds and valuables record.
- k) Resident grievances and complaint record.

TECHNICAL ASSISTANCE: *When a resident has a written advance directive, including a “DNR,” the licensee is to maintain such health care information in the resident’s record. The licensee is to provide any advance directives to attending emergency medical and/or any other medical personnel, when applicable. If a resident is a patient of a licensed hospice agency, their Hospice Service Plan is to be considered an addendum to the resident’s assessment plan and maintained in the resident’s record.*

To confirm that a hospice agency is licensed in the state of Michigan, the consultant may check the Department of Community Health website.

Administrative Rule and Statutory Cross Reference

Rule 400.1416 Resident health care

(2) Resident records shall be kept on file in the home for 2 years after the date of a resident’s discharge from a home.

R 400.1423 Resident recreation.

Rule 23. (1) A licensee shall make reasonable provision for a varied supply of leisure and recreational equipment appropriate to the number, care, needs, and interests of the residents. Such leisure and recreational equipment shall be safe, clean, in good repair, and easily accessible.

(2) Equipment and materials shall encourage and reinforce all of the following:

- a) Social interaction.
- b) Further growth through first-hand experiences.
- c) Social graces.
- d) Productive utilization of leisure time.

TECHNICAL ASSISTANCE: *The licensing consultant is to determine through interview and observation that the home’s leisure and recreational equipment works, is accessible to the residents, and is safe. Activities and equipment should take into consideration the age, functioning levels, and interests of the residents. Materials and supplies should encourage social interaction, productive use of leisure time, intellectual growth and creative expression. Examples of materials*

and supplies include magazines, books, records, cards, puzzles, games, and the like.

R 400.1424 Environmental health.

Rule 24. (1) The water supply shall be adequate, of a safe and sanitary quality, and from an approved source. Hot and cold running water under pressure shall be provided.

TECHNICAL ASSISTANCE: If the facility has a private water system, the local health authority determines compliance with this rule. If a new well is drilled, or at any other time the water supply may be suspect, the consultant is to request approval of the water from the local health authority.

An adequate amount of hot water is to be available for residents' use. The consultant may confirm this by interviewing residents. Water pressure is to be tested by consultants when conducting inspections.

Administrative Rule and Statutory Cross Reference

Rule 400.1426 (1) Maintenance of the premises

(2) All sewage shall be disposed of in a public sewer system or, in the absence thereof, in a manner approved by the health authority.

TECHNICAL ASSISTANCE: If the facility has a private sewer system, the local health authority determines compliance with this rule.

When consultants conduct onsite inspections, they are to observe whether there is evidence of septic/sewer failure by flushing toilets and turning on faucets to determine if plumbing fixtures drain properly.

The consultant is also to inspect for evidence of sewage on or near the ground's surface. Septic tank effluent is very dark or black in appearance and extremely malodorous. If working improperly, the septic system area may also be soft and wet. All sewage problems are to be referred to the local health authority.

(3) All garbage and rubbish containing food wastes shall be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids and removed from the premises at least weekly.

(4) Effective measures shall be taken to protect against the entrance of vermin into the home and against the breeding or presence of vermin on the premises.

TECHNICAL ASSISTANCE: Examples of effective control measures include but are not limited to:

- 1) Keeping kitchen and food storage areas clean and free of excessive clutter. Not using loose or contact paper for shelf liners.***

- 2) ***Eliminating potential places of harborage and avenues for entrance into the home, such as cracks and crevices in construction.***
- 3) ***Obtaining the services of a licensed pest control operator when necessary.***
- 4) ***Screening and sealing all openings to the outside.***
- 5) ***Maintaining yard areas to prevent attracting vermin.***

(5) Poisonous and toxic materials shall be identified and shall be used only in such manner and under such conditions as will not contaminate food or constitute a hazard to residents.

(6) Open windows shall be screened from May to October.

TECHNICAL ASSISTANCE: If licensees claim that screens are not needed because the facility is equipped with central air, the consultant should interview residents to determine if windows are ever opened. Screening must be of a small enough mesh to prevent entry of insects, and where at or near grade, equipped with larger mesh to prevent entry of vermin.

R 400.1425 Food service.

Rule 25. (1) All food shall be from sources approved or considered satisfactory by the department and shall be clean; wholesome; free from spoilage, adulteration, and misbranding; and safe for human consumption.

TECHNICAL ASSISTANCE: According to the Michigan Dept of Agriculture and the USDA Guidelines, powdered milk which is labeled grade "A" and pasteurized may be mixed with water and used as a beverage for residents and in cooking and baking. The container in which the milk is reconstituted must be covered and washed, rinsed and sanitized between uses. Partially filled containers cannot be refilled until they are washed, rinsed and sanitized.

Statutory and Administrative Rule Cross Reference

Rule 400.1419 Nutrition

(2) While being stored, prepared, or served, or during transportation to a home, all food shall be protected from contamination.

TECHNICAL ASSISTANCE: The consultant may recommend that a stab type food thermometer be available to check food temperatures. The probe of the thermometer is to be disinfected prior to each use. This is not to be required in family homes.

Statutory and Administrative Rule Cross Reference

Rule 400.1419 Nutrition

(3) All perishable food shall be stored at such temperature as will protect against spoilage. All potentially hazardous food shall be maintained at safe temperatures (40 degrees Fahrenheit or below or 140 degrees Fahrenheit or above), except during necessary periods of preparation and service.

TECHNICAL ASSISTANCE: Potentially hazardous food is any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxic microorganisms.

Potentially hazardous frozen food is to be thawed at refrigerator temperatures of 40°F or below; or under cool, potable running water; or quick-thawed as part of the cooking process. Potentially hazardous foods are not to be thawed at room temperature.

Though not required, it is recommended that thermometers be in refrigerators and freezers to assure that food is protected against spoilage.

The entire food preparation area, equipment and utensils are expected to be kept sanitary. Some areas that will be inspected include, but are not limited to the following:

- ***Equipment – stoves, ranges, hoods, tables, counters, refrigerators, sinks, dishwashing machines and any other non-portable equipment in the kitchen.***
- ***Tableware – multi-use eating and drinking utensils, including flatware (knives, forks, and spoons).***
- ***Kitchenware – multi-use utensils such as pots and pans, other than tableware used in the storage, preparation conveying or serving of food.***
- ***Miscellaneous kitchen items – wall exhaust fans, any items which are essential to the kitchen operations. Nonessential items that may only contribute to poor sanitation should be kept out of the kitchen.***
- ***All food-contact surfaces of equipment and utensils must be clean to sight and touch prior to use in food preparation or service.***
- ***Single service articles must not be used more than once.***
- ***Tableware with worn surfaces or cracks or chips should be discarded, as they cannot be thoroughly cleaned.***
- ***Cutting boards with chips or cracks must be discarded.***

Cutting boards made of maple or constructed of synthetic materials are recommended. To avoid cross-contamination, a separate cutting board should be used for fruits and vegetables than that which is used for meats, poultry, seafood, etc. (foods which will go through the cooking process).

R 400.1426 Maintenance of premises.

Rule 26. (1) The premises shall be maintained in a clean and safe condition.

TECHNICAL ASSISTANCE: The home is to be arranged and maintained to provide a safe and healthy environment for the residents; minimization of hazards and routine maintenance are required. The entirety of the home as it relates to the characteristics of the population served is to be taken into consideration when determining compliance. Any hazards to residents are to be cited and must be corrected. The home must be kept in a sanitary condition and the furnishings in the home must be maintained in good repair so as to be useful to the residents, and to present a comfortable, clean and orderly appearance.

Exits and means of egress to the outside are to be unobstructed.

Non-movable or locked bars, coverings or other obstructions on windows are not allowed.

Stairway risers and treads are to be uniform and consistent in size.

A sturdy handrail is to be provided at any change of floor level.

Where open stairways exist, the licensee must take measures to assure that resident protection and safety has been addressed. This may require the installation of a gate or partial doorway, high enough to prevent resident falls.

Hot water is to be maintained at a temperature range between 105 F and 120 F at resident accessible fixtures.

The mortar of brick and stone chimneys needs to be intact so that loose bricks or stones will not be a threat to residents.

Eaves troughs and down spouts must be securely fastened and kept in good repair.

Auxiliary buildings are to be maintained such that residents will not be subjected to hazards.

All repairs and remodeling shall be conducted in accordance with local jurisdiction requirements.

Administrative Rule and Statutory Cross Reference

MCL 400.706 (4) – Protection

400.733 – Regarding compliance with local construction codes.

Check on this cross reference to assure it is up to date with new construction code.

(2) All living, sleeping, and kitchen areas shall be well lighted and ventilated.

TECHNICAL ASSISTANCE: *Consultants should rely upon their initial impressions of the lighting and their common sense when inspecting various areas of the facility. The citing of violations in facilities should reflect various symptoms of the problem, such as the existence of large shadow areas, and other indicators that the tasks to be accomplished by residents and staff have been made more difficult because of poor illumination.*

There is to be adequate ventilation throughout the home. Means of ventilation includes windows and mechanical ventilation systems. Rooms should have a source of ventilation year-round. Rooms or areas where smoking is permitted are to have a source of ventilation year around. When mechanical ventilation systems are used the consultant is to determine through observation that the system is operating.

Indicators of adequate ventilation include:

- *Steady, on-going air exchange*
- *Control of odors*
- *Absence of extreme humidity, dryness, mold or mildew*

(3) A roof, exterior walls, doors, skylights, and windows shall be weathertight and watertight and shall be kept in sound condition and good repair.

TECHNICAL ASSISTANCE: *In addition to obvious leakage of air or water, indicators of deficiencies include but are not limited to water stains on ceilings or walls, buckled walls, peeling paint, squishy carpeting, floors that sag, standing water in the basement, or if air space can be observed to the outside.*

Windows designed to be opened are to be easily openable.

(4) Floors, interior walls, and ceilings shall be sound, in good repair, and maintained in a clean condition.

TECHNICAL ASSISTANCE: *Walls and ceilings must be free from breaks, cracks, flaking paint or plaster, or made of materials which render cleaning impossible. Floor moldings must be installed to fit both the floor and adjoining wall very tightly.*

Any rug or carpet that is not completely flat may be a tripping hazard to the resident.

(5) All plumbing fixtures and water and waste pipes shall be properly installed and maintained in good working condition. Each water heater shall be equipped with a

thermostatic temperature control and a pressure relief valve, both of which shall be in good working condition.

TECHNICAL ASSISTANCE: *Plumbing fixtures and water and waste pipes are to be free from leakage and wear. Plumbing fixtures are to be operable (flush toilets and run water to check for drainage). Flame producing water heaters must be properly vented to the outside. All water heaters must have a temperature/pressure relief valve with a discharge pipe attached to it which terminates within 4 inches of floor level.*

(6) All water closet compartments, bathrooms, and kitchen floor surfaces shall be constructed and maintained so as to be reasonably impervious to water and to permit the floor to be easily kept in a clean condition.

TECHNICAL ASSISTANCE: *A water closet compartment is the area containing the toilet. Where carpeting is installed in bathrooms, or other high splash areas, the carpeting must be maintained in a clean condition and in good repair.*

Indications of problems include strong odors, cracked flooring, spongy or weak flooring, or evidence of leakage.

Carpeting in bathrooms should be discouraged. It is recommended, though not required, that flooring should be made with materials that are relatively impervious to water, are smooth and easily cleanable.

(7) Stairways shall have sturdy and securely fastened handrails which are not less than 30, nor more than 34 inches above the upper surface of the tread. Exterior and interior stairways shall have handrails on the open sides. Porches shall also have handrails on the open sides.

TECHNICAL ASSISTANCE: *All handrails are to be properly installed and meet the minimum height requirement. If both sides of a stairway are open, rails are required on both sides. Exterior porches elevated above grade level are to be enclosed with rails on the open sides, if the elevation above grade is more than the size of one average riser or 8 inches.*

(8) Scatter or throw rugs on hard finished floors shall have a nonskid backing.

(9) Handrails and nonskid surfacing shall be installed in showers and bath areas.

TECHNICAL ASSISTANCE: *The home is to have handrails (grab bars) installed in shower and bath areas. Handrails are to remain secure when grasped.*

Nonskid surfacing or strips are mandatory in showers and bath areas. Showers and bathtubs equipped with nonskid materials from the manufacturer are acceptable alternatives.

Handrails are recommended to be installed on the entry side of the bathtub or on an adjacent wall at right angles, at the entry side of the tub.

(10) Sidewalks, fire escape routes, and entrances shall be kept reasonably free of hazards, such as ice, snow, and debris.

TECHNICAL ASSISTANCE: The home's sidewalks, hallways, fire escapes, and entrances are kept clear of anything that would present an obstacle to someone leaving the building. Such obstacles may include snow, ice, trash containers in hallways, furniture which may protrude into a passageway, loose carpeting or floor tiles, baby gates, locked doors, improperly fitting doors and other obvious hazards.

In homes with more than 2 exits the consultant should review the evacuation plan to determine the primary and secondary fire safety exits. These exits must be kept clear of all hazards, obstructions, and debris.

When a garage is used as a fire escape route, the passageway through the garage itself is to be kept clean even when the garage is used for storage of autos, lawn equipment, power tools, etc.

(11) A yard area shall be kept reasonably free from all hazards, nuisances, refuse, and litter.

TECHNICAL ASSISTANCE: Broken or uneven concrete walks or driveways must be repaired or removed. Decorative pools, fishponds, swimming pools, hot tubs, canals or severe elevation changes without barriers constructed around them, could be hazardous. Depending upon the population served, the licensee will need to be able to demonstrate how safety of residents will be maintained when hazards exist in the yard surrounding the facility. House rules and each resident's assessment plan are to address these hazards. Glass, metal containers, electrical appliances and extension cords must be kept away from pool areas.

Where swimming pools or other bodies of water are on or adjacent to the premises, the home should have water rescue equipment such as life rings, and a pole or hook immediately available. Swimming pools and equipment are to be operated and maintained in accordance with the pool manufacturer's instructions and in compliance with all local regulations. Slides and diving boards are not recommended.

(12) Cooking appliances shall be properly installed in accordance with the manufacturer's recommended safety practices. Where metal hoods or canopies are provided, they shall be equipped with filters which shall be maintained in an efficient condition and kept clean at all times.

(13) A written report shall be made to the adult foster care licensing division of the department, the resident's designated representative, and responsible agency within 48 hours, excluding holidays and weekends, of the occurrence of fire or severe weather conditions that result in bodily injury or property damage exceeding \$100.00.

TECHNICAL ASSISTANCE: *When reported, the consultant is to determine if continued occupancy of the home is safe. The consultant may contact local fire authorities or the Bureau of Fire Safety for consultation.*

R 400.1427 Living space.

Rule 27. (1) A licensee shall provide, per occupant, not less than 35 square feet of indoor living space, exclusive of bathrooms, storage areas, hallways, kitchen, and sleeping areas.

TECHNICAL ASSISTANCE: *Occupants include all members of the household, such as licensees, family members, residents, and room and boarders. Indoor living space could include but would not be limited to living rooms, dining rooms, family rooms and recreation rooms.*

Administrative Rule and Statutory Cross Reference

Rule 400.1401(i) - Occupants

400.1406(2) – Total Occupants in a Home

(2) A resident shall not be housed above a second floor of a 3-story single-family residence.

TECHNICAL ASSISTANCE: *Stories begin at or above grade; basements are not included. A tri-level home that has 5 or fewer steps between floors shall not be considered a 3-story residence.*

(3) Living and sleeping areas for a resident shall be contained within the home.

(1) Subrules (1) and (2) of this rule do not apply to those adult foster care family home applicants or licensees who applied for a license or who were issued a license before the promulgation of these rules.

TECHNICAL ASSISTANCE: *This is a grandfather provision that exempts licensees that had applied for a license or were licensed before September 17, 1984, from having to meet the requirements of sub rules (1) and (2) of this rule.*

In the case of a change in the licensee, the home must meet the current rules.

R 400.1428 Dining space.

Rule 28. A family home shall have dining space which can accommodate all occupants in the home at the same time.

Administrative Rule and Statutory Cross Reference

Rule 400.1401 (i) Definition of occupant

R 400.1429 Room temperature.

Rule 29. All occupied rooms of a home shall be heated at a temperature not less than 68 degrees Fahrenheit.

TECHNICAL ASSISTANCE: *“Occupied rooms” means those rooms in a home regularly used by residents for daily living purposes such as sleeping, dining, bathing, recreation, and the like; does not include enclosed porches. Temperature recommendations contained in residents’ health care appraisals must be accommodated.*

The licensee should take precautions to prevent prolonged resident exposure to drafts and/or non-circulating air.

Administrative Rule and Statutory cross Reference

Rule 400.1407 - Resident Care Agreement: Resident Health care Appraisal

R 400.1430 Bathrooms.

Rule 30. (1) Toilets, bathtubs, and showers shall provide for individual privacy.
(2) Bathroom doors may be equipped with positive latching, non-locking-against-egress hardware. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bathroom doors.

TECHNICAL ASSISTANCE: *Though not required, bathroom door hardware should be non-locking against egress.*

(3) A home shall have a minimum of 1 toilet, 1 lavatory, and 1 bathing facility for each 8 occupants of the home.

TECHNICAL ASSISTANCE: *When determining the minimum number of toilets, lavatories, and bathing facilities required in a home, bathrooms restricted from resident use are not to be considered when determining the minimum number of bathrooms required for residents.*

Administrative Rule and Statutory Cross Reference

Rule 400.1401(1)(i) Occupants

(4) A home housing more than 8 occupants shall have a minimum of 2 toilets, 2 lavatories, and 2 bathing facilities.

(5) Subrule (4) of this rule does not apply to those adult foster care family home applicants or licensees who applied for a license or who were issued a license before the promulgation of these rules.

TECHNICAL ASSISTANCE: *This is a grandfather provision that exempts licensees that had applied for a license or were licensed before September 17, 1984, from having to meet the requirements of subrule (4) of this rule.*

R 400.1431 Bedrooms generally.

Rule 31. (1) A living room, dining room, hallway, basement, or other room not ordinarily used for sleeping shall not be used for sleeping purposes by residents of the home.

TECHNICAL ASSISTANCE: *The consultant, through interview and observation, is to determine how the rooms of the home are used to determine that bedrooms are available for use by residents. Where basements are used for sleeping purposes, such use is to be in compliance with local requirements, and the Michigan Construction Code requiring an egress window or a second exit. The consultant may request that the licensee obtain written approval from the local building zoning authority.*

Administrative Rule and Statutory Cross Reference

MCL 400.733 Local ordinances, regulations, or construction codes

(2) Bedrooms for residents shall be separated from halls, corridors, and other rooms by floor to ceiling walls.

(3) Interior doorways of bedrooms occupied by residents shall be equipped with a side-hinged, permanently mounted door equipped with positive-latching, non-locking-against-egress hardware.

TECHNICAL ASSISTANCE: *These doors must be equipped with hardware that can be opened with a single motion, such as a turn of a knob or push of a handle, even if the door itself is locked. Pocket, slide or folding doors do not comply with the requirements of this Rule.*

(4) Traffic to and from any room shall not be through a resident bedroom.

(5) Bedrooms shall have at least 1 window.

Administrative Rule and Statutory Cross Reference

Rule 400.1424(6) Open windows screened

400.1426(1) Safety (2) Ventilation

(6) Residents of the opposite sex shall not occupy the same bedroom for sleeping purposes, unless they are husband and wife.

(7) A resident having impaired mobility, as determined by a licensed physician, shall not sleep in or be assigned a bedroom located above the street floor in a single-family residence.

Administrative Rule and Statutory Cross Reference

Rule 400.1401 (o) Definition of street floor

400.1426 (1) Safety

(8) A resident shall be provided with reasonable storage space for storage of his or her personal belongings.

Administrative Rule and Statutory Cross Reference:

Rule 400.1433 (1) Bedroom furnishings

R 400.1432 Bedroom space; “usable floor space” defined.

Rule 32. (1) As used in this rule, “usable floor space” means floor space that is under a ceiling which is not less than 6 feet 6 inches in height, excluding closets and space under a portable wardrobe.

TECHNICAL ASSISTANCE: The consultant should observe the home for slanted ceilings or other obstructions that could affect the amount of required usable floor space. Usable floor space in bedrooms with sloped ceilings is to be measured in the following way:

- a) If the lowest part of the ceiling is more than 6’6”, from the floor, the entire room can be measured.***
- b) If the lowest part of the ceiling is less than 6’6”, the only part of the room that is considered usable is the area where you can measure at least 6’6” between the floor and the ceiling. A dresser or other storage area may be located in the low ceiling area of the room.***

(2) A bedroom shall have not less than 65 square feet of usable floor space per bed.

TECHNICAL ASSISTANCE: Bedroom dimensions are to be measured and recorded by the consultant and maintained in the BCAL facility file.

(3) A maximum of 4 beds shall be allowed in any multi-occupancy bedroom.

(4) There shall not be less than a 3-foot clearance between beds in a multi-occupancy bedroom.

R 400.1433 Bedroom furnishings.

Rule 33. (1) Bedroom furnishings shall include an adequate closet, wardrobe, or a dresser.

(2) Rollaway beds, cots, double-deck beds, stacked bunks, hide-a-beds, and day beds shall not be used by residents for sleeping.

(3) A licensee shall provide a resident with a bed that is not less than 36 inches wide and 72 inches long, with comfortable springs in good condition, a clean protected mattress which is not less than 5 inches thick or 4 inches thick if of synthetic construction, and with a pillow.

TECHNICAL ASSISTANCE: *The consultant is to observe resident beds and assure that the bed has a foundation and a mattress that is clean, in good repair, and that a mattress cover or other protective covering is present.*

Beds without “springs” may be considered for Rule: exemption (e.g. waterbeds, captain beds).

A standard size bed pillow is to be provided for each resident and maintained in clean and good condition.

Administrative Rule and Statutory Cross Reference
Rule 400.1442(1) Exemptions

R 400.1434 Linens.

Rule 34. (1) A licensee shall provide bedding which includes 2 sheets, a pillowcase, a minimum of 1 blanket, and a bedspread. Bed linens shall be changed at least weekly or more often if soiled.

TECHNICAL ASSISTANCE: *Bed linens should be maintained in good condition. Two (2) sets of linens are recommended to be available for each resident.*

(2) A licensee shall provide towels and washcloths which shall be changed at least weekly or more often if soiled.

TECHNICAL ASSISTANCE: *Towels and washcloths should be maintained in good condition. Two (2) sets of washcloths and 2 bath towels are recommended for each resident.*

R 400.1442 Exemption from rules

Rule 42.(1) Upon written request of an applicant or licensee, the department may grant an exemption from an administrative rule if there is clear and convincing evidence that the alternative to the rule complies with the intent of the administrative rule from which exemption is sought.

(2) The decision of the department, including the conditions under which the exemption is granted, shall be entered upon the records of the department, and a signed copy shall be sent to the applicant or licensee. This exemption may be time-limited or may remain in effect for as long as the licensee continues to comply with the intent of the rule.

(3) An exemption granted pursuant to this rule is not transferable from one applicant to another or from one licensee to another.