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Introduction

The Child Care Organizations Act116 of the Public Acts of 1973, as amended, in Section 4 requires the Division of Child Welfare Licensing (also referred to as DCWL and the Department) to assist child placing agencies in meeting the requirements of the Act and the promulgated administrative rules. This assistance is provided in the form of consultation and technical assistance, both written and verbal.

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

As required by Child Care Organizations Act 116, the Department has developed administrative rules for child placing agencies and foster family homes/foster family group homes.

The foster home licensing rules (Pub 10) were approved by the Legislative Services Bureau and the Joint Committee on Administrative Rules of the Michigan Legislature and filed with the Office of the Great Seal on June 9, 2023. Foster Home Licensing rules became effective June 16, 2023. It is anticipated that the Child Placing Agency Rules (Pub 11) will be effective within 7-14 days after the foster home rules.

The administrative rules for Child Placing Agencies are divided into eight parts:
Part 1 – General Provisions
Part 2 – Agency Services
Part 3 – Foster Home Certification
Part 4 – Foster Care Services
Part 5 – Independent Living Services
Part 6 – Adoption Evaluation Services
Part 7 – Adoption Placement Services
Part 8 – Inter-Country Adoption

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

Part 1 – General Provisions
Part 2 – Application and Licensing
Part 3 – The Foster Home
Part 4 – Foster Care

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

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

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

Maintenance of TA Manual

Revision and additions to policy will continue to be transmitted to child placing agencies and approved governmental units through Communication Issuances. Communication Issuances will also highlight changes that will be made to the online TA Manual. The TA Manual and CPA letters will continue to be available via the www.michigan.gov/dhslicensing web site.

The Relationship between Public Child Care Organizations Act 116 and Administrative Rules

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

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

The purpose of Child Care Organizations Act 116 is:

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

- To repeal certain acts and parts of acts.

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

Section 2 (1) of Child Care Organizations Act 116 (MCL 722.112(1))

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

Section 3 (3) of Child Care Organizations Act 116 (MCL 722.113(3))

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

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

Are Foster Home Certification Procedures Mandatory?

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

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

Section 5(3) of Child Care Organizations Act 116 (MCL 722.115(3))

(3) The department may authorize a child placing agency or governmental unit to investigate a foster family home or a foster family group home according to subsection (2) and to certify that the foster family home or foster family group home meets the licensing requirements prescribed by this act…

Section 8a(2) of Child Care Organizations Act 116 (MCL 722.118a(2))

The department may authorize a licensed child placing agency or an approved governmental unit to periodically assess a licensed foster family home or a

licensed foster family group home pursuant to subsection (1) and to certify that the foster family home or foster family group home continues to comply with this act and the rules promulgated under this act …

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

R 400.12301 Department Authorization (CPA Rule)

(1) The department shall authorize an agency to certify foster homes for licensure.

(2) An approved governmental unit must comply with the provisions of this part to be authorized to certify foster homes for licensure.

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

Section 3(4) of Child Care Organizations Act 116 (MCL 722.113(4))

Inspection reports completed by state agencies, local authorities, and child placing agencies shall be furnished to the department and shall become a part of its evaluation for licensing of organizations covered by this act. After careful consideration of the reports and consultation where necessary, the department shall assume responsibility for the final determination of the issuance, denial, revocation, or provisional nature of licenses issued under this act. A report of findings shall be furnished to the applicant or licensee.

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

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

R 400.12302 Program statement (CPA Rule)

An agency shall have and follow a current written program statement that includes all the

following information:

(a) Types of foster care provided.
(b) Age and characteristics of children served.
(c) Types and numbers of foster homes needed.
(d) Types of services provided to **children, parents, relatives, and** foster families.
(e) Geographical area covered.

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

R 400.12303 Policy and Procedures (CPA Rule)
(1) An agency may not have a policy related to certifying homes that violates section 102 of the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2102.
(2) An agency may not be more restrictive than the department's policies or administrative rules governing licensing and services.

Consistency among all child placing agencies is necessary so that the application of rules does not discriminate in favor of or against any person or create unnecessary barriers to license foster homes.

Child Placing Agencies have dual interest:

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

THE ROLE OF CHILD PLACING AGENCIES

1. To provide orientation to prospective foster parents.
2. To investigate and assess families to determine if they comply with the rules and can work with the agency to provide care to the children served by the agency.
3. To share their findings and assessment with families who apply for a foster home license.
4. To make a recommendation to the Division of Child Welfare Licensing to issue a license or deny a license to applicants after the initial evaluation is completed.
5. To provide training to foster parents.
6. To complete an investigation when information is received that relates to a

possible violation of foster home licensing rules or **Child Care Organizations Act 116** and make a determination of compliance with the applicable rules and statute. The agency is to make a licensing recommendation based on the determination of compliance with the applicable rules and statute.

7. To complete annual and renewal on-site evaluations of licensed foster homes in a timely manner.
8. To maintain foster home files and records.
9. To complete any changes to a license via the manner prescribed by the Division of Child Welfare Licensing.

THE ROLE OF THE DIVISION OF CHILD WELFARE LICENSING

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

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

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

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

Recruitment and Retention

R 400.12304 Recruitment and Retention (CPA Rule)

(1) An agency shall have an ongoing foster home recruitment program to ensure an adequate number of suitable and qualified homes based on the needs of children referred to the agency.

(2) An agency shall develop, implement, and maintain a program of foster home retention that includes foster parent involvement.

Communication of Need During Recruitment

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

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

Responding to Inquiries

An inquiry is generated when a prospective foster parent contacts an agency about becoming a foster parent. The Michigan Foster Care Portal (MFCP) provides prospective foster parents with a central location to submit their inquiry and application to multiple agencies. The prospective foster parent will access the Michigan Foster Care Portal (MFCP) website through their own device or through the kiosk computers available in the MDHHS office lobbies. A pop-up screen will appear directing the prospective foster parent to Log In via MI Bridges or Sign Up via MI Bridges. The MFCP will conduct a search of Child Placing Agencies (CPA's) in the selected mile range of the address. If the prospective foster parent knows the name of the agency they wish to work with, they can enter the name of the agency directly. The Inquiries received via the MFCP will reviewed by the perspective CPA's

A record of all inquiries is to be retained in CWLM. Individualized tracking methods using a separate electronic system outside of CWLM for tracking foster parent inquiries and applications are to be decommissioned effective May 17, 2023. All tracking efforts are to be streamlined statewide using CWLM as the source of record.

Inquirers that do not fit the agency's current recruitment needs, based on the information in the agency program statement, may be referred to other

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

All child placing agencies, both contracted and non-contracted, will receive, review and must maintain inquiry records in the Child Welfare Licensing Module (CWLM).

The CWLM record will include:

- The prospective foster parent who inquired.
- The date of the inquiry
- Referral source
- Name(s), address, and phone number of the inquirer.

Response of Certifying Agency

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

The certifying agency may respond by:

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

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

The applicant can attend multiple Orientations with different agencies and have multiple applications released to them. They are only able to complete and submit one application. They will need to decide which agency they want to work with prior to completing an application.

Retention of Foster Homes

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

Orientation and Application

R400.12307 Orientation (CPA Rule)
Rule 307. An agency foster parent orientation must consist of an overview of all the following areas:
(a) Purposes of foster care.
(b) Characteristics and needs of the children and families served by the agency.
(c) Child attachment and separation issues.
(d) Impact of fostering on the foster family.
(e) Role of the foster family.
(f) Licensing process.
(g) Grievance procedure.
(h) Importance of a child's parents and relatives
(i) Parenting time and sibling visits.
(j) Agency foster care policies and procedures.
(k) Agency foster parent training requirements.
(l) Supportive services and resources.
(m) Trauma responsive care.
(n) Collaboration in transportation planning.
(o) Provisions of the children's ombudsman act.
(p) Provisions of the child protection law.
(q) Foster care review board appeal procedures.
(r) Foster parent bill of rights law.

R 400.9203 Orientation (FH Rule)
Before completing and submitting an application for an original license or transferring a license to another certifying agency, each applicant/licensee for a foster home license must attend orientation pursuant to R 400.12307(CPA).

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

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

Orientation is to include critical information from Child Care Organizations Act 116 that precludes licensure, such as Central Registry substantiations and convictions of crimes identified in Child Care Organizations Act 116 that precludes licensure, such as Central Registry substantiations and convictions of crimes identified in Public Act 116. The information should explain that a history of

conviction of Specified Crimes as listed in the Good Moral Character (BCAL Publication 673) may preclude licensure and must be reviewed by DCWL as well as the certifying agency. The agency's program statement is to be provided to prospective applicants during orientation as this outlines the characteristics and needs of the children and families served, or not served, by the agency.

There are many resources available to firearms safety and storage training. Below are some examples:

- **Project ChildSafe**
  - Information on how to obtain a **FREE** gun safety kit and where to obtain a **FREE** gun trigger lock in all 83 counties in Michigan.
- **Gun Safety and Children** - CS Mott Children's Hospital | Michigan Medicine
  - Resources for:
  - Gun storage
  - Guns at homes of others
  - Teaching children about what to do in the presence of a gun
  - Adolescents, teens, and guns
  - Non-powder guns, BB guns, and toy guns
- **Firearms Laws of Michigan**
  - Information regarding firearm laws in Michigan as compiled by the Legislative Service Bureau Pursuant to Act 381 of the Public Acts of 2000 April 2021.
- **Parents' Guide to Home Firearm Safety**
  - Information regarding firearms safety among children and teens. Great resources for families.
- **Michigan Handgun Safety Course**
  - This course includes easy-to-understand handgun safety instructions alongside detailed illustrations, animations, and live-action videos in order to provide you with the education and skills necessary to be a knowledgeable and safe handgun owner. **This course is free of charge.**

CWL-3889 APPLICATION

R 400.12306 Application Request.
(1) An agency shall provide an orientation for prospective applicants for a foster home license before a foster home application is provided.
(2) An agency shall document that a person who has met the requirements of subrule (1) of this rule has received an application and information regarding all the following:
(a) A copy of the act.
(b) Administrative rules for foster homes.
(c) Administrative rules for child placing agencies.
(d) Good moral character rules.

(e) The child protection law.
(f) The children's ombudsman act.
(g) The agency's program statement.
(h) The agency's foster care services policies.
(i) The agency's foster parent training requirements.

(3) An agency shall provide the licensee an application for renewal of the license and document the action not less than 60 calendar days before the expiration date of the license. A renewal application must be provided to a licensee, regardless of any pending recommendation for disciplinary action of the license.

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

Importance of Needs Assessment
Act No. 116, Section 5(1), (MCL 722.115 (1))
If satisfied as to the need for a child care organization, its financial stability, the good character and intent of the applicant, and that the services and facilities are conducive to the welfare of children, the license shall be issued.

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

NOTE: To meet this "needs test", all that is required of an inquirer is to express a willingness to provide care for the types of children and families served as identified in the agency's program statement

R 400.12308 Application submission (CPA Rule)
(1) An agency shall act on a completed and signed application. An agency shall require all caregivers in a multiple-caregiver household to sign the application.
(2) An agency may consider an application withdrawn after 60 days if the applicant fails to cooperate, after attempts to actively engage the family, with the completion of the licensing process, provided there are no known non-compliances that would result in disciplinary action.

R 400.9204 Application submission. (FH Rule)
(1) A foster home applicant will complete, sign, and submit an application.
(2) In a multiple caregiver household, all applicants must sign the application.
(3) An agency may consider an application withdrawn after 60 days if the applicant fails to cooperate, after attempts to actively engage the family, with the completion of the licensing process, provided there are no known non-compliances that would result in disciplinary action

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

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

Once an application is signed, the agency must complete an assessment and licensing recommendation based on the facts provided during the assessment. Applications with current non-compliances that would warrant a disciplinary action may not be automatically or voluntarily withdrawn as a recommendation of a denial is necessary.

The CWL-3889, Children's Foster Home License Application, is a mandatory form and a legal document. The completion and signing of the application give the agency permission to conduct the licensing investigation. The agency cannot do any licensing tasks without the signed and dated application.

Agencies may not hold the application for signature until the end of the home study process to avoid going beyond the standard 180-day time frame from date of application for the processing of an application. If the licensing process takes longer than 180 days, the agency is NOT to obtain a new application with a new signature date.

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

It is the responsibility of the applicant(s) to complete and sign the application form and return it to the agency. If the applicant needs assistance in completing the form, they may contact the certifying agency and ask for assistance.

The agency is to clearly explain the application form to prospective applicants and make it clear that the signatures on the application form allow the agency to conduct an evaluation the of applicants, all household members, and the home to determine compliance with the applicable rules. Signatures on the application provide the certifying agency with authorization to conduct an evaluation, background checks and interviews with persons who have information about the

applicant.

In a multiple caregiver household, all caregivers must sign the application. This would include a husband and wife; a married couple where both individuals are the same gender; adult living together partners, regardless of gender; or adults who will share the caregiver role. Information that may assist in determining who maintains a caregiver role in the home includes the following:

- Provides regular care for children in the home.
- Significant other who resides in the home.
- Home ownership.
- Significant income contributions.

Once the agency receives a signed application, agency staff must conduct an evaluation.

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

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

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

The agency worker is to review the form to make sure that all items are completed, that the information entered is legible and to verify that all the information provided on the form is accurate, including the date of birth, social security number and driver's license or state ID number of the individual. All applicants must sign and date the form.

Section 3-5: These sections are to be completed by the person(s) whose record is being checked**.** The agency worker is to review the form to make sure that all items are completed, that the information entered is legible and to verify that all the information provided on the form is accurate, including the date of birth, social security number and driver's license or state ID number of the individual.

- Applicant Name is the name of the individual group, i.e., John and Mary Smith or Susan Jones, to be named on the license. The item identified "Aliases/maiden/previous married name(s)/" is to be filled in for anyone who has ever used another name.
  - Affirmed names

  - Maiden names
  - Previous married names
  - Birth/adoptive names
  - Name changes (gender related/other)
  - Aliases
- **If the person has not used any other names, indicate NONE or N/A in the box provided or it will be returned to the agency by DCWL and the enrollment will not be processed.**
- The Michigan Department of Health and Human Services defines sex to include gender identity.

- The item identified "If you have lived outside of Michigan in the past 5 years, please list the states/countries where you have lived" must be completed.
  - If the applicant/licensee or any adult member of the household has resided in another state and/or country in the past 5 years, a central registry clearance must be obtained from that state/country. This is a requirement of the federal government for IVE funding.

- The agency must pay particular attention to make sure the individual has answered the questions within the "Have you ever:" section related to being convicted of a crime, felony or misdemeanor, being substantiated for abuse/neglect of children/adults or having previous applications/licenses to care for children/adults.

  - If the individual has checked "yes", an explanation, date(s) and type of offense(s), must be written on the lines that follow. If any portion of this section is incomplete, the form will be returned to the agency without being processed.
- **Please be sure that the application is signed and dated by all applicants.**
- **Please be sure that the driver's license number/state identification number is provided.**

In order to determine whether an applicant has failed to cooperate and would lead to a withdraw of application/enrollment due to non-response, at least three letters attempting to engage the applicants must be completed and filed before the application/enrollment can be withdrawn.

Record Clearances and Enrollment

R 400.12309 Criminal history; central registry; "good moral character"; convictions. (CPA Rule)

(1) The agency will obtain from a foster home applicant or licensee the name of, and a signed release for a criminal history and child protective services check to obtain any of the following information from each adult member of the household, including children who turn 18 years of age while living in the home:
(a) Conviction of a crime other than a minor traffic violation.
(b) Involvement in a confirmed abuse or neglect of a child or adult.
(c) Placement on court-supervised parole or probation.
(2) If an applicant, licensee, and/or adult member of the household identifies as a member of a federally recognized Indian tribe or identifies that they have lived on a reservation, the certifying child placing agency must contact the specific tribal jurisdiction, including tribal social services or the tribal court, to determine whether that jurisdiction has relevant background information to provide to the certifying child placing agency regarding the licensing assessment. In the event the tribe does not respond to the inquiry, the department may proceed with the licensing assessment.
(3) The agency shall require a foster home applicant or licensee to undergo a fingerprint-based, criminal history check.
(4) The agency shall require any adult member of the household to undergo a state-based, criminal history background check and, if applicable, contact with the appropriate tribal jurisdiction as referenced in subrule (2). Upon the agency receiving information that an additional adult is residing in the home; the agency shall immediately obtain a release from the additional adult for the information required in subrule (1).
(5) A license will not be issued or maintained by an applicant or licensee unless the department has made a determination under MCL 388.42 regarding the applicant or licensee's "good moral character" and convictions.

R 400.9205 Criminal history; central registry; "good moral character;" convictions. (FH Rule)

(1) A foster home applicant~~/~~ or licensee must provide the agency with the name of, and a signed release for, a criminal history and child protective services check to obtain any of the following information from each adult member of the household, including children who turn 18 years of age while living in the home:
(a) Conviction of a crime other than a minor traffic violation.
(b) Involvement in substantiated abuse or neglect of a child or adult.
(c) Placement on court-supervised parole or probation.
(2) If an applicant, licensee, or adult member of the household identifies as a member of a federally recognized Indian tribe or identifies that they have lived on a reservation, the certifying child placing agency must contact the specific tribal jurisdiction, including tribal social services or the tribal court, to determine whether that jurisdiction has relevant background information to provide to the department regarding the licensing approval. The department may proceed with the licensing application process using all other factors for licensing approval of the home if there is no tribal response.

(3) A foster home applicant or licensee must undergo a fingerprint-based, criminal history check.
(4) Any adult member of the household must undergo a state-based criminal history background check and, if applicable, contact with the appropriate jurisdiction as referenced in subrule (2) of this rule.
(5) A license may not be issued or maintained by an applicant or licensee unless the department has made a determination under section 2 of 1974 PA 381, MCL 338.42, regarding the applicant or licensee's "good moral character" and convictions.
(6) A foster parent must provide the agency with the name of any adult who moves into a licensed foster home within 3 working days, or upon the agency's request. A release must be signed by the adult to obtain the information required in subrule (1) of this rule.

Records Check Process

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

Records checks are completed concerning the following histories:

- Criminal convictions
- Child Protective Services and Central Registry records
- Public Sex Offender Registry
- Secretary of State
- Prior licensing records.

Fingerprinting

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

Michigan is utilizing a form of electronic fingerprinting called "live scan", which allows for automated fingerprint analysis and transmission of results and long-term storage of fingerprints in a database administered by the Michigan State Police (MSP). The Department of Health and Human Services (DHHS) contracts with a private company to perform the live scan fingerprinting, by appointment, at multiple sites in Michigan.

The RI30 from is required by the MSP to verify authorization and consent has been given for collection and use of the applicant's fingerprints. **The application (CWL-**

3889) signature and date must be on or before the date of the RI30. If the dates are not as stated above, fingerprint results will not be released to the certifying agency. New fingerprints must then be obtained.

A separate CWL-1326AH Licensing Record Clearances Request form must be completed for all adult household members. Adult household members are defined by Child Care Organizations Act 116 as any Individual who resides in a foster home on an ongoing basis, or who has a recurrent presence in the home, including, but not limited to, overnight stays. For foster family homes and foster family group homes, a member of the household does not include a foster child.

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

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

The statute **does not** require fingerprinting of adult members of the household. It does, however, require a CWL-1326AH be completed for each adult member of the household (not including licensees who have been fingerprinted) and submitted for renewal, at every renewal. See CPA R 400.12324.

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

Record checks must be completed when:

- A child living in the home turns 18 (including foster children).

- An adult person moves into the home.
- The adult household members need to complete a CWL-1326AH at each renewal.
- There is a change of licensee group, i.e. adding a licensee to an existing license. When a licensee is being added to an existing license, the RI-30 must be completed, and the person must be fingerprinted.

Record checks are **not** to be completed for substitute caregivers. The Division of Child Welfare Licensing **will not** complete record checks for substitute caregivers. Agencies must complete record checks for primary substitute caregivers I-CHAT. They also must complete central registry clearances through the local DHHS office. ICHAT is an online resource that allows criminal record checks. Use of ICHAT does not include a children's protective service (CPS) check.

Non-profit agencies are able to obtain police clearance information through ICHAT. See http://apps.michigan.gov/ichat/home.aspx for further information on ICHAT and other available on-line services.

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

For applicants/licensees being fingerprinted, the RI30 must be taken with them to their appointment so the TCN number can be recorded on the form. Please refer to the licensing web page to see the most current information on arranging fingerprint appointments.

If an applicant is being assessed for both licensure and adoption at the same time, **the agency is to schedule two back to back appointments**. One will be for code **AWF** and the other for **AWA**.

When registering applicants for fingerprinting, please be sure to use the finger print code of Foster Parent-AWF for a foster home license**. If you check anything other than Foster Parent- AWF, the information cannot be released to the agency for licensing purposes and the foster parent will need to be re-fingerprinted with the correct code (Foster Parent-AWF).**

Each category is assigned a 3-letter code and agency ID # – **e.g.** foster home license applicants or active licensees (AWF) – **Agency ID#: 68465P**. The AWF-Foster Parent-Agency ID#: 68465P is the category that needs to be selected. The CPA worker checks the correct application type and checks correct code when the agency is registering the person for fingerprinting.

The name entered into CWLM should be the person's legal name, i.e. Robert instead of Bob, Jennifer instead of Jenny, etc. and is to match the name on the person's driver's license of state ID.

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

- A TCN number (a tracking number used for identifying the individual scan) will be issued for each fingerprint completed by the contractor.

- **Payment** - DHS will pay the contractor's fingerprint fee for all foster home applicants, licensees and foster child adoption applicants through a billing system and contract with the contractor. The contractor will expect private domestic adoption applicants to pay the fee at the time of the fingerprinting.

- The contractor transmits the fingerprint scan to the Michigan State Police (MSP). The MSP database runs a Michigan criminal history clearance and acquires a national clearance from the FBI. The MSP will electronically transmit the FBI and Michigan clearance results to DCWL. DCWL will provide both clearances to the Child Placing Agency that initiated the request.

Evaluating Fingerprint/Criminal History Results

Criminal History
This section will be completed in CWLM indicating the fingerprint/ICHAT system was checked for licensees/adult household members to determine if there are any criminal arrests/convictions that have been reported to the Michigan State Police (MSP) or Federal Bureau of Investigation (FBI).

If there is no record of criminal arrests/convictions, the clearance response will indicate "Fingerprint Hit? No." Printouts of the FBI and MSP or ICHAT responses will be uploaded into the secure criminal history section of CWLM. The agency is to assess all information included in the attachments provided (See section on Evaluating Fingerprint Results).

Example of fingerprint response:

Fingerprint Results

Fingerprint Hit? Yes	Date Documents received from Agency 3/29/2023
MI Criminal History Exists No	Fingerprint Results Received Date 3/6/2023
Federal Criminal History Exists Yes	

Assessment

Fingerprint Results Analysis
Fed hit

Details **Related**

Crimes (2)
2 items • Updated a few seconds ago

New

	Crime ID	Offense	Status	Date	Type	GMC?	Director R...
1	[redacted]	Receipt of Stolen Property	Arrest Segment	11/17/1972	Listed	Yes	
2	[redacted]	Receipt of Stolen Property	Judicial Segment	11/18/1972	Listed	Yes	

View All

Example of Adult Household Member Criminal History:

Criminal History Background Check (MI ICHAT)

Person has Criminal History Background?	Criminal History Completed By
	Criminal History Completed Date

Criminal History Background Check (MI ICHAT)

Person has Criminal History Background?	Criminal History Completed By
	Criminal History Completed Date

Assessment

Assessment

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

- Child Placing Agencies are to apply the Good Moral Character (GMC) process for conviction information received from the ICHAT, MSP and FBI clearances.
- If the conviction is for a good moral character crime as defined in Publication 673 Good Moral Character (R400.1151 and R400.1152), the CPA must prepare an Administrative Review Team (ART) summary and recommendation for DCWL, if the CPA continues to recommend licensure or continued licensure.
- Michigan fingerprint results come in the format from ICHAT – with separate "arrest", "charge" and "judicial" – i.e. conviction – sections. The FBI clearance is in a format that shows, at a minimum, the arrest and charge information, along with the city and state of the law enforcement agency making the arrest. If the person has multiple arrests on the FBI database, the earliest arrest will be entitled "Cycle 001"; the next oldest will be entitled "Cycle 002"; etc.
- Frequently, clearances will come to the CPA showing charges even if the MSP/FBI does not have conviction data available to provide. **The agency must contact the relevant court to determine if a full conviction occurred**.
- The CPA must interview the applicant/licensee or adult household member about-all arrests, charges or convictions, and describe the information gathered in the evaluation. All self-disclosed criminal history must also be included in the evaluation.
- Information must include:
    - How long ago did it happen?
    - What happened?
    - What do they tell you happened?
    - What does the police report state happened?
    - Does the person accept responsibility for their actions?
    - What have they learned?
    - What would they do differently in the future?
- In the case of standing convictions of good moral character crimes, the agency must research the outcome of the charge beyond the statement of the applicant/licensee and prepare either an ART summary recommending licensure **or** denial of issuance/refusal to renew/revocation disciplinary action. The ART summary must only be completed when the agency is recommending licensure or continued licensure.
- If the applicant/licensee withheld information about a crime during the application process, the CPA is to obtain an explanation from the applicant/licensee and include it in the evaluation and/or ART summary.
- Do not accept an "It's not me" defense on a fingerprint result. If a person disputes the fingerprint results the applicant must follow the process for formally objecting to the results through the court and/or law enforcement

agency per SRM 200.

- Absent the applicant/licensee acquiring written explanation and resolution of the error from the arresting law enforcement agency or the involved court, DCWL will consider any fingerprint match to be accurate and will take actions accordingly.
- Please see SRM 200 for instructions regarding how an individual can request that criminal history from the fingerprint responses due to inaccurate information.

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

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

Suggestions to assist in assessment of criminal history arrest/conviction information:

1. **Inform the applicant or adult household member that they are to list all criminal convictions, both misdemeanor and felony, no matter when they occurred**. Common rationale given by a person who does not list a conviction, when he/she has one is, "I thought they only wanted felonies" or "it happened so long ago."

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

   Remember that this is the individual's only opportunity to be honest about their background before the criminal conviction history is acquired by the agency. Being honest only after he/she is aware that the agency knows about the conviction demonstrates that the individual is within the assessment.

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

3. **Read the description while the applicant is present and ask for clarification, if the description is not detailed.** One of the most common

problems in conducting this process is the lack of factual information on which an assessment of the criminal act itself can be based. Do not accept the simple claim that the applicant does not recall anything about the incident without questioning it. A person's willingness to speak freely and honestly, in detail, about their criminal history impacts greatly on whether there is evidence of rehabilitation. "Rehabilitation" involves not simply the act of saying one will never do it again; it is also the act of accepting responsibility for what one has already done wrong. In assessing rehabilitation, it is important to determine what the "root cause" of the criminal history at the time it occurred.

4. **Consider whether a conviction was the result of a trial or a plea bargain.** The printout often specifies either "Found Guilty" or "Pled Guilty". A guilty verdict after a trial means that an independent fact-finder, either a judge or jury, concluded that the facts presented at trial fit the definition of the crime of which the person was convicted. It would rarely be appropriate to "look behind" this type of conviction to find a different crime was committed. Conversely, a plea agreement is a frequent indication that the actual act was more serious than the conviction indicates. If the conviction was in Michigan, the ICHAT printout shows what the arresting offense was as well as the offense the person was convicted of.

5. **Acquire copies of police reports.** If the applicant states that there are no police records, check by calling the police department that made the arrest and asking the records department how long they retain police reports. After acquisition of the report, compare the police description to the applicant's written version. Police reports are to be considered fact-based information and major discrepancies should be discussed with the applicant and assessed for truthful reporting. Be sure to compare what the individual stated happened with what the police report indicates happened. There should not be a significant disparity between the two.

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

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

      For example, the maximum term of an armed robbery can be "any term of years" and will be set by the sentencing judge. It is frequently 15 or more years. Therefore, you might have an applicant whose criminal offense was more than 15 years prior, yet the individual has only been off parole supervision for a very short period of time. In such a case, the amount of time that has passed since the incident itself is

not considered strong evidence of rehabilitation.

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

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

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

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

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

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

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

   c. **Does the description explain every arrest and conviction in an incident where s/he was convicted of multiple arrests/offenses?** Be sure to assess all the crimes of which s/he was convicted or arrested, not simply the good moral character convictions. Also, if there are multiple arrests/convictions of the same charge, there should be separate crimes described for each charge.

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

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

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

R 400.9205 Criminal history; central registry; "good moral character"; convictions.
(5) A license may not be issued or maintained by an applicant or licensee unless the department has made a determination under MCL 338.42 regarding the applicant or licensee's "good moral character" and convictions.

The criminal involvement of any of the adult members of the household is to be assessed for a determination of compliance with Foster Home Rules 400.9201(j) and 400.9205(5). The information that shows up on the MSP and FBI clearance results that relate to criminal convictions must be evaluated to determine good moral character, responsible character and suitability.

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

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

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

Definitions

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

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

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

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

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

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

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

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

HOMICIDE – causing the death of another [Common Law]

Statutory offense titles – Murder – any degree; Manslaughter – any degree; Willful Killing; Negligent Homicide (This offense requires that the homicide resulted from the person's operation of a vehicle.)

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

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

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

MAYHEM – Intentional maiming or disfiguring [Statutory]

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

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

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

DCWL has assessed the following convictions to also be included as Good Moral Character non-compliances:

Perjury	Identity Theft	Retail Fraud	Forgery
Welfare Fraud	Uttering & Publishing	False pretenses	Assault
Domestic Violence	Stalking	Felony Peeping Tom	Indecent Exposure
Human Trafficking	Breaking and Entering	Home Invasion	Provide Alcohol to Minor
Disorderly Person	Obscene Conduct	Common Prostitution	Window Peeper
Insufficient funds	Battery	Gross Indecency	Possession of Stolen Property

Non-Specified Crimes

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

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

When the certifying agency receives information regarding convictions, the applicant/licensee is to be notified. Copies of the results provided by DCWL **MAY NOT** be given to the applicant/licensee.

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

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

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

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

Procedure for Recommending Issuance of a License with Criminal Convictions

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

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

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

ADMINISTRATIVE REVIEW TEAM (ART)

When the agency completes the entire licensing evaluation, including the assessment of the conviction(s), and the decision is to recommend licensure despite a conviction(s) for a specified crime as indicated in the Good Moral Character rules, the agency is to complete a separate report referred to as the ART Summary. This is to be submitted with the initial licensing packet. Stand-alone ART summaries are to be submitted to DCWL via the system approved by the Department. The information included in the ART summary includes Criminal History Record Information (CHRI) that may only be discussed in the secure criminal history area of the system approved by the Department.

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

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

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

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

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

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

new information regarding the conviction is received.

The Adoption and Safe Families Act of 1997

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

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

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

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

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

Permanent criteria:

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

5-Year Criteria:

- Assault and battery
- Drug-related

It is unlikely that an individual will be approved for licensing if there is a

conviction for an ASFA identified offense.

Child Care Organizations Act 116

722.119 Child care organization; presence of certain individuals prohibited; conditions; contact by certain individuals prohibited; conditions; documentation that individual not named in central registry; policy regarding supervision of volunteers; children's camps or campsites

Sec. 9. (1) A licensee, adult member of the household, licensee designee, chief administrator, or program director of a child care organization shall not be present in a child care organization if he or she has been convicted of either of the following:
(a) Child abuse under section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b, or neglect under section 145 of the Michigan penal code, 1931 PA 328, MCL 750.145.
(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment or of becoming a member of the household.

If any member of the household has a conviction of child abuse or a felony involving harm or threatened harm to an individual in the last ten years may not be licensed. The child placing agency must recommend a disciplinary action for any evaluation completed with these members of the household present.

Licensing Central Record Clearance Request/Enrollment Procedures

All signed and dated initial license applications are required to be enrolled by DCWL. Once the application has been completed by each applicant, the child placing agency must submit the completed application for enrollment in CWLM. **Please be sure to verify who the enrollment should be routed to via the DCWL Routing Matrix and the DCWL Contact Sheet located on the DCWL public website**: **DCWL Training (michigan.gov).**

The central records clearance request for applicants/licensees are prompted by the CWL-3889 application and will be completed after the child placing agency submits the application to DCWL. This is the enrollment processes.

Agencies may view a list of their currently enrolled and licensed homes on the Statewide Search for Licensed Child Welfare Agencies:

https://michildwelfarepubliclicensingsearch.michigan.gov/

Central records clearance requests for adult household members are prompted by the CWL-1326AH and will be completed once the child placing agency submits the signed completed form

to DCWL via CWLM. Please reference the business processes located on the CWLM communications website for further information regarding how to complete each request, **Documents (michigan.gov).**

Please be sure the individual has noted any aliases on the CWL-1326AH or include N/A if there are none (Aliases may include but are not limited to: name changes, birthnames, adoptive names, affirmed names, married names and nicknames etc.).

DCWL will complete the following central records clearances on applicant/licensee and adult household members:

- Secretary of State (SOS)
- Central Registry and CPS history
- Previous Registration/License
- Public Sex Offender Registry

DCWL will complete criminal clearances on adult household members via ICHAT: The ICHAT system has information on convictions that have been reported to the Michigan State Police system from a local law enforcement agency. An individual may have convictions that have not been reported to the ICHAT system. The information received from the ICHAT system meets the requirement for a records check of criminal convictions for adult members of the household.

A separate CWL-1326AH Licensing Record Clearance Request form must be completed for all adult household members. Adult household members are defined by Child Care Organizations Act 116 as any Individual who resides in a foster home on an ongoing basis, or who has a recurrent presence in the home, including, but not limited to, overnight stays. For foster family homes and foster family group homes, a member of the household does not include a foster child.

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

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

The statute **does not** require fingerprinting of adult members of the household. It does, however, require a CWL-1326AH be completed for each adult member of the household (not including licensees who have been fingerprinted) and submitted for renewal, at every renewal. See CPA R 400.12324.

Record checks must be completed when:

- A child living in the home turns 18 (including foster children).
- An adult person moves into the home.
- The adult household members need to complete a CWL1326CW at each renewal.
- There is a change of licensee group, i.e. adding a licensee to an existing license. When a licensee is being added to an existing license, the CWL-RI 030 must be completed and the person must be fingerprinted.

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

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

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

Evaluation of Central Record Clearances

When the completed record clearances are processed by DCWL and available for the child-placing agency, the information must be evaluated by the agency.

- Public Sex Offender Registry (PSOR) is checked for the name and address of all adult individuals associated with the home to determine if anyone has used that address for the registry. A license will not be issued if PSOR shows any sex offender registered as living at the address of the licensee/applicant.
  - If the box is checked yes, an additional document for review will be uploaded in the document hyperlink. The agency will then need to determine if the sex offender is in the home.
  - There are times where someone used this address in the past and has not re-registered on the sex offender registry at a different address. If this is the case, then the applicant will have to contact their local law enforcement and to prompt an investigation to have this name

removed from their address.
  - If your applicant or household members are on PSOR, then the recommendation for licensure must be denial.
  - If the box is checked no, no one is listed on PSOR using that address.

- Secretary of State (SOS):
  - If the box is checked yes, additional information for review will be uploaded in the document hyperlink. The agency will then need to determine what the SOS discrepancy is.
    - The application address and the legal identification (driver's license/state ID) address must match. The applicant will need to correct this before licensure. PA 116 requires the licensee to permanently reside at the address being licensed (adult household members do not need to update their driver's license address).
    - The applicant/licensee may have an expired license.
      - The agency will need to assess why the license is expired and how transportation will be provided.
    - The applicant/licensee may have a suspended/revoked license.
      - The agency will need to assess why the license is suspended. Are there outstanding fines? Warrants? How are they being resolved? How transportation is being provided currently?
    - If the box is checked no:
      - An SOS discrepancy is not present.
      - DCWL will notify the agency if the applicant/licensee/household member does not have a driver's license or state ID. If the applicant/licensee does not have at least a state id, one will need to be obtained to verify who the person is.

- Central Registry/CPS History:
  - If either box is checked yes, then the agency must request the CPS reports from the Redaction Unit and provide a thorough assessment of the history.

CeDCWL - Process for Reviewing Central Registry and CPS history:

The child placing agency must review the information regarding CPS history once central record clearances have been provided by DCWL. The agency must discuss the history with the person identified as being on central registry or having CPS history. A full assessment of the history, including review of supporting records and interviews with applicable parties, must be completed. Supporting records may include CPS reports, handwritten accounts of incidents, medical/mental health documents, previous special evaluations, dispositional findings etc.

If the agency is unable to determine whether the name on the central registry/CPS hit is the applicant or adult household member, a CPS supervisor in

the county that entered the information on Central Registry/CPS is to be contacted. If the report cannot be located in the Department's approved system, the agency is to obtain the opening and closing reports from the CPS supervisor in the county that entered the CPS record and use the information contained therein to make the final determination. Private child placing agencies must utilize the protocol outlined by the redaction unit for all CPS record requests.

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

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

If it is determined that the person who remains on Central Registry is an applicant/adult member of the household, the recommendation **must be** denial of issuance. No administrative review will be conducted to determine the suitability of individuals listed on the Central Registry. The Children's Protective Services' decision to place a person on Central Registry is based on a determination that there is a preponderance of evidence that either child abuse or neglect occurred.

If the applicant/licensee/household member has had their name on Central Registry (including expunged history) or has other CPS history, the agency must continue to assess the following:

- Review of the CPS report (if available)
- How long ago did it happen?
- What happened?
- When it was expunged?
- Why it was expunged?
- History of CPS involvement?
- What do they tell you happened? What does the report state happened?
- Do they take responsibility?
- What have they learned?
- What would they do differently in the future?
- Have the root causes of the CPS history/criminal history been rectified (lifestyle

changes, benefit from services etc.) to prevent future occurrences?

Once the assessment is completed, the agency may make the determination that a recommendation for DENIAL OF ISSUANCE is warranted if non-compliances of licensing rules are found.

Please see the Assessment Assistance Tool – Central Registry located in the Tools section on the DCWL public website: DCWL Training (michigan.gov).

Common rules that must be assessed when there is previous CPS history include, but are not limited to:

R 400.9201 Foster home applicant/licensee qualifications.
(1) A foster home applicant or licensee must meet all the following qualifications:
(b) Be willing and can demonstrate the ability to meet the following requirements for children who are served by the agency:
(i) How to provide care.
(ii) Understanding the care needed and the ability to meet those care needs.
(vi) Willingness to accept and support a child's SOGIE.
(d) Have the physical, mental, and emotional health to ensure appropriate care of children.
(e) Be of responsible character and be suitable and able to meet the needs of children and provide for their care, supervision, and protection.
(3) If an applicant is identified on the state central registry as a perpetrator of child abuse or neglect in this state, any other state, a Canadian province, or as part of a tribe, the applicant may not be licensed.

R 400.9206 Foster home evaluation.

- Provide accurate and truthful information on an ongoing basis regarding the following:
  - The applicant or licensee's family and marital status and history, including the current and previous level of family functioning and relationships, and any current and previous incidents of domestic violence, elder abuse, or child abuse, either as a perpetrator or victim.
  - The circumstances surrounding any criminal convictions or arrests for each member of the household, including minor children.
  - Current or past physical, mental, and emotional health of each member of the household, including substance use, abuse, or treatment.
  - Parenting skills and strategies for building healthy relationships with children.
  - Methods of discipline of children. Adjustment and special needs of the applicant's own children, including children not living in the home.

R 400.9202 Member of household qualifications; central registry.

- If an adult member of the household is identified on the central registry as a perpetrator of child abuse or neglect in this state, any other state, a Canadian province, or as part of a tribe, the applicant may not be licensed.

Note: Agencies are only to complete central registry clearances in the Department's approved system for their own applicants/licensees/adult household members.

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

Below is a link for a list of ADAM WALSH STATE CONTACTS FOR CHILD ABUSE REGISTRIES (the list can also be located on the DCWL public website). The list also includes each state's requirements for submitting a child abuse and neglect background clearance.

Adam Walsh Contact List (maine.gov)

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

- **Process of reviewing previous licenses:**
  - If the box is checked yes, the family has been previously enrolled or licensed for foster care, childcare, or adult foster care.
  - If the previous license was for a foster home, the certifying agency is to contact the agency where the family was previously licensed and obtain a copy of the file, if available.
  - The file is to be thoroughly reviewed. Special attention is to be paid to previous special evaluation reports.
  - Contact with the previous licensing consultant should be made if the previous license was for child day care or adult foster care.
  - The signed CWL-3889 contains a release of information. Information about a previous license is to be released to child-placing agencies where the family has made application. No additional signed release of information is required.

- If the home was closed through disciplinary licensing action of any kind, i.e. denial of issuance, refusal to renew the license, revocation, administrative closure or "in lieu of adverse action", the agency must determine how the family will now comply with rules they were previously found to be in non-compliance of.
- The agency is to ask the applicant about the events that occurred that led to the disciplinary licensing action.
- The family is to be evaluated for current compliance with the rules or current intent to comply.
- The agency may not automatically deny issuance of a license based solely on a past disciplinary licensing action. Child Care Organizations Act 116, 722.125, Sec. 15
  (4) A person, childcare organization, agency, or representative or officer of a firm, a corporation, an association, or an organization who has a license or certificate of registration revoked, application denied, renewal refused, or, before the effective date of the 2017 amendatory act that amended this subsection, certificate of registration revoked or refused renewal or application denied may be refused a license, or be prohibited from being connected, directly or indirectly, with a licensee for a period of not less than 5 years after the revocation, denial, or refusal to renew.
- If the disciplinary action was taken against any type of license less than 5 years ago, it is unlikely that a new license will be issued in accordance with this section of Child Care Organizations Act 116.
- Any recommendation for licensure when the applicant has had a previous license taken through any type of disciplinary action must be reviewed by the division director of DCWL before the license may be reopened.
- If the applicant/adult member of the household has previously had, or currently has a foster home license, an adult foster home license, or a day care license in Michigan, the license number will be indicated on the clearance response.
- If there was any form of disciplinary licensing action on a previous license, that information will be on the record clearances by DCWL.

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

Current Child Care and Adult Foster Care License
If there is a current or previous childcare or adult foster care license, the childcare or adult foster care consultant should be contacted to assess any compliance issues while licensed.

The current licensing information may also be reviewed at Statewide Search for Licensed Child Care Centers and Homes or Statewide Search For Adult Foster

Care / Homes for the Aged Facilities Childcare capacity must also be considered with regards to compliance with FH R 400.9401.

If a current adult foster family home license exists at the same address, a concurrent license may only be issued to an Adult Foster Care Family Home (AF license type) or Adult Foster Care Small Group Home (AS type) and only for a related child. If the home is licensed as any other type of AFC home, that license must be closed before a children's foster care license can be opened (see Child Care Organizations Act 116, 722.111a)

INITIAL EVALUATION

R 400.12310 Initial Evaluation (CPA Rule)
(1) An agency social service worker shall complete a written initial foster home evaluation, on a form provided by the department, before certifying the home for licensure.
(2) The report must include the dates and places of contacts and persons interviewed or observed.
(3) The agency shall assess all the following:
(a) The applicant or licensee's family and marital status and history, including current and past level of family functioning and relationships, and any incidents of domestic violence, elder abuse, or child abuse, as a perpetrator.
(b) The circumstances surrounding any criminal convictions or arrests for each member of the household, including minor children.
(c) Physical, mental, and emotional health of each member of the household, including any history of substance use disorder or treatment.
(d) Current mental health or substance use, or both.
(e) Parenting skills and strategies for building healthy relationships with children.
(f) Methods of discipline of children.
(g) Adjustment and special needs of the applicant's own children, including children not living in the home.
(h) Previous licenses or experience in providing child foster care, child day care, or adult foster care.
(i) Existence of a social support system including alternate care providers.
(j) Willingness to accept a child's spirituality, or religious beliefs or practices, even if they differ from the foster parent.
(k) Willingness to accept and support a child's SOGIE.
(l) Safety and maintenance of the applicant's house and property, including but not limited to, the following:
(i) Sufficient beds and sleeping space.
(ii) Pets.
(iii) Weapons.

(iv) Fire or water hazards.
(m) The age, number, gender, race, ethnic background, and characteristics of children preferred by the applicants, including those characteristics that an applicant or licensee would not accept.
(4) The agency will collect all the following:
(a) Three current references, related or non-related, from the applicant or licensee.
(b) A medical statement that includes all treatments, prescriptions, and medications for each adult member of the household that indicates that the member has no known condition which would affect the care of a foster child. The statement must be signed by a physician, physician's assistant, or nurse practitioner within the 12-month period preceding the date of the initial evaluation. Any subsequent household member added to the household must provide the medical statement within 90 days.
(c) Information regarding any past or current, or both, mental health or substance use disorder treatment by any member of the household.
(d) The inspection results in compliance with R 400.9305.
(5) An agency shall document placement specifications consistent with the information contained in the evaluation. The placement specifications must include the following:
(a) The age, number, SOGIE, race, ethnic background, and characteristics of children preferred by the applicants.
(b) Characteristics of children best served by the family,
(c) Children who may not be placed in the home. The child's racial, ethnic, and cultural identity, heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interests of the child.
(6) An agency shall inform the applicant of the department's policies and procedures regarding concurrent planning.
(7) An agency shall provide the applicant with a copy of the final initial evaluation.

R 400.9206 Foster home evaluation (FH Rule)

A foster home applicant/licensee must do all the following:
(a) Allow the agency access to the foster home and any other buildings located on the premises for licensing and foster child supervision purposes.
(b) Provide accurate and truthful information on an ongoing basis regarding the following:
(i) The applicant or licensee's family and marital status and history, including the current and previous level of family functioning and relationships, and any current and previous incidents of domestic violence, elder abuse, or child abuse, either as a perpetrator or victim.
(ii) The circumstances surrounding any criminal convictions or arrests for each member of the household, including minor children.
(iii) Current or past physical, mental, and emotional health of each member of the household, including substance use, abuse, or treatment.
(iv) Parenting skills and strategies for building healthy relationships with children.
(v) Methods of discipline of children.
(vi) Adjustment and special needs of the applicant's own children, including children not living in the home.
(vii) Previous licenses or experience in providing child foster care, child day care, or adult foster care.
(viii) Existence of a social support system including alternate care providers.
(ix) Willingness to accept a child's spirituality, or religious beliefs or practices, even if they are

different from the foster parent.
(x) Willingness to accept and support a child's SOGIE.
(xi) Safety and maintenance of the applicant's house and property, including, but not limited to, sufficient beds and sleeping space, pets, firearms and other weapons, and water hazards.
(xii) The age, number, SOGIE, race, ethnic background, and special characteristics of children preferred by the applicants, including those characteristics that an applicant or licensee would not accept.
(c) Provide the agency with all the following:
(i) Three current references related or non-related to the applicant/licensee.
(ii) Verification of completed pre-licensure training for each person listed on the license as outlined in R 400.12312(2) and (3).
(iii) A medical statement that includes all treatments, prescriptions, and medications for each member of the household that indicates the member has no known condition which would affect the care of a foster child. The statement must be signed by a physician, physician assistant, or nurse practitioner within the 12-month period preceding the date of the initial evaluation. Any subsequent household member added to the household must provide the medical statement within 90 days.
(iv) Information regarding any past or current mental health treatment by any member of the household.

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

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

ASSESSMENT OF RULES

R 400.9201 Foster home applicant /licensee qualifications; central registry check. (FH RULE)
(1) A foster home applicant or licensee must meet all the following qualifications:
(a) Be 18 years of age or older.
(b) Be willing and can demonstrate the ability to meet the following requirements for children who are served by the agency:
(i) How to provide care.
(ii) Understanding the care needed and the ability to meet those care needs.
(iii) Has adequate time to provide care and supervision.
(iv) Work with a foster child's current and future family.

(v) Willingness to accept a child's spirituality, or religious beliefs or practices, even if they are different from the foster parent.
(vi) Willingness to accept and support a child's SOGIE.
(c) Have a source of income or resources to meet the needs of the foster family.
(d) Have the physical, mental, and emotional health to ~~assure~~ ensure appropriate care of children.
(e) Be of responsible character and be suitable and able to meet the needs of children and provide for their care, supervision, and protection.
(f) Be residing in the United States legally.
(2) In addition to the qualifications in subrule (1), an applicant may also live on a reservation or may be a confirmed member of a federally recognized Indian tribe.
(3) If an applicant is identified on the state central registry as a perpetrator of child abuse or neglect in this state, any other state, a Canadian province, or as part of a tribe, the applicant may not be licensed.
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RULE INTERPRETATION

(1)(a) Be 18 years of age or older.
Interpretation: The following should be considered during assessment:

- There is no maximum age for foster parents.
- The agency may not further restrict age requirements.
- As with other parts of this rule, an assessment must be done if the age of the applicant/licensee is seen as a barrier to the person providing an acceptable level of care for children that might be placed in the home.

(b) Applicant/licensee must be able to demonstrate the following requirements for children who are served by the agency:

(i) Can demonstrate an ability how to provide care.
Interpretation: The following should be considered during the assessment:

- general knowledge of normal child development and how to meet the needs of children.
- Able to objectively interact with biological parents during parenting visits.

(ii) Show an understanding the care needed and the ability to meet those needs.
Interpretation: The following should be considered during the assessment.

- How the applicant/licensee will be able to provide care to children who have experienced trauma, have cognitive or developmental/educational delays.

- Applicant/licensees understanding that foster children may present with social limitations due to a history of trauma.
- Applicant/licensees understanding that many foster children have mental health diagnosis and other conditions typically present because of childhood trauma.

(iii) Has adequate time to provide care and supervision.

Interpretation: The following should be considered during the assessment:

- Applicant/licensee have adequate time to transport to parental/sibling visits?
- Does applicant/licensee realize the amount of time that will be required to meet the needs of foster children?
  - To help applicant(s) may use tools such as eco-maps and projective eco-maps, 24-hour clocks in helping applicant(s) determine if they have time to foster.
- Do work schedules allow for time to be spend with foster/own children?
- Is daycare and substitute care in place while applicant(s) are working?
- What shift do they work, who is with children during critical times (school mornings, meals, bedtimes)? Who will be with the children if at work?
- Will applicants(s) be available for agency staff visits?
- Are the applicants willing to potentially adjust club memberships, sport teams, organizations, all of which take time away from home?
- Is there a supportive network for the applicant(s) to allow for breaks, especially if it is a single applicant?
- Will the needs of household family members allow adequate time to also provide equal care for foster children?

(iv) Work with a foster child's current or future family.

The applicant/licensee's relationship with a birth parent is significant. The agency should stress the importance of working as a team with the birth parent as well as the need to comply with the family's treatment plan as outlined by the child's case manager, as well as the court orders for the child and birth parents.

Interpretation: The following should be considered during the assessment:

- Will the applicant/licensee be able to support family reunification when birth parents have previously abused or neglected their children?
- Is the applicant/licensee willing or able to discuss the progress children have made, as well as the problems the children are having, with the birth parents or other prospective caregivers

(foster/adopt).

- Is the applicant/licensee willing to have family visits in their home?
- Will the applicant/licensee work with potential adoptive families the agency identifies for a child?

(v) Willingness to accept a child's spirituality, or religious beliefs or practices, even if they should differ from the foster parent.
Interpretation: The following should be considered during the assessment.

- Agencies are to determine if applicant/licensees with faiths and religious practices different from their own are willing to accept children who have faiths different than theirs.

- Agencies are to assist applicant/licensees in planning for a child to attend religious/spiritual/services and practices that are different than their own.

- Conversely, agencies are to advise applicant/licensees regarding a foster child's participation in their religious/spiritual/services practices.

- If the foster child or their parents object, other arrangements will need to be put into place for childcare during the time that the foster parents attend their religious or spiritual services. Coordination with the child's case manager is required to resolve any concerns.

(vi) Willingness to accept and support a child's SOGIE.

Interpretation: The following should be considered during assessment.

- Determine the applicant/licensee's level of understanding and knowledge of diverse SOGIE.
- What is the applicant/licensee's willingness to care for children with diverse SOGIE.
- Understanding the challenges LGBTQ12S experience.

Please see CI 19-086 Practice Guide for Working with Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex and Two Spirit Youth in Michigan's Child Welfare System

(c) Have a source of income or resources to meet the needs of the foster family.

The applicant/licensee must be able to manage the income/resources to pay their bills. The agency must visually verify expenses to note in their assessment of income/resources vs. expenses. Expenses that should be verified include but are not limited to, rent, rental insurance, house payments, including taxes and insurance, utilities (heat, gas, water, electric, fuel, etc.), car

payments, car insurance, telephone, (landline, cell, internet), internet, cable, Gasoline, credit debt, student loans, child support, pet supplies, etc. Routine expenses such as food, clothing, hygiene, house/car maintenance, charitable donations, daycare, eating out, and entertainment. If the family expresses discomfort providing documentation of expenses, the worker may visually verify the expenses and document in the report that they were verified.

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

Interpretation: The following should be considered during the assessment.

- Applicant/licensee must have adequate levels of income/resources to meet the needs of the family prior to foster care payments.
- The agency must visually verify financial resources (pay stubs, previous income tax records, bank statements, child support records, disability award letters, letters from family who are providing resources etc.).
- If income or resources are time limited, such as, public assistance, unemployment, adoption subsidy, family contributions, or employer resources agency must obtain information from the source to determine when the income or resources will end.
- Friend of the Court payments have to be verified to be paid consistently over a period of time but is also time limited in nature and must be evaluated/determined in relationship to the age of the children and if support is being paid.
- If receiving unemployment, work history must be examined and if actively looking for employment and what are other resources are available?
- The figures provided by the applicant must be determined if they are realistic, looking at family size, age, do they live on a farm, home preservation of food, bulk purchasing of food etc.
- Tax refunds are not considered to be reliable ongoing income.
- Income or resource management should be considered when determining if they are sufficient to meet the needs of the family.

(d) Have the physical, mental, and emotional health to assure appropriate care of children.

Interpretation: The following should be considered during the assessment.

- If applicant/licensee is revieing RSDI or SSI from the Social Security Administration for a disability, the agency must determine if the reason for the disability will affect the applicant/licensee's ability to provide foster care.
- There must be an assessment of the reason/diagnosis for disability eligibility. Attempts to obtain documentation should be made.
- If applicant/licensee takes prescribed medication, list the medications and any side effects experienced by the individual.
    - Consider what side effects are indicated by the individual and/or their medical practitioner.
- Physical, mental, and emotional diagnosis:

- Do they impair the ability to provide foster care?
  - If so, consider a safety plan.
- Assess how the diagnosis presented both prior to and after treatment.

- Level of compliance with prescribed treatment for medical/mental health diagnosis.
- Substance abuse issues: Both past and current use must be assessed.
  - Did the person go through treatment?
  - Is the individual currently engaged in a treatment program such as, AA, NA, or a 12-step program?

(e) Be of responsible character and be suitable and able to meet the needs of children and Provide for their care, supervision, and protection.

Interpretation: The following should be considered during the assessment.

RESPONSIBLE CHARACTER is the ability to:

- Distinguish between right and wrong.
- Ability to think and act rationally.
- Be accountable and take responsibility for one's behavior.
- Be dependable, reliable, and be able to pay debts and meet family obligations.
- Be able to show growth and maturity after experiences or life events.

SUITABLE means the applicant/licensee:

- Is truthful.
- Does not have a criminal history that could affect the safety or welfare of children in care.
- Can make appropriate judgements.
- Understands and is knowledgeable of the developmental needs of children at different developmental stages.
- Conducts oneself in a way that rule requirements are met.
- Is not on the central registry as a perpetrator of child abuse and neglect.
- Does not have a substantial history with CPS as an alleged perpetrator.

(f) Be residing in the United States Legally

Interpretation The following should be considered during the assessment.

- Birth certificate
- Visa: type when it was issues and expiration date.
- What is the long-term plan when visa expires?
- Green Card: When was it issued? When is the renewal date? What is the long-term plan?
- Naturalization papers.

(g) May live on a reservation.

Interpretation: The following should be considered during the assessment.

- Is the applicant/license legally allowed to reside on a reservation?
- Is a member of a register tribe in Michigan?
- Applicant's who reside on a reservation may obtain a foster home license.

(h) May be a confirmed member of a tribe.

Interpretation: The following should be considered during the assessment.

- Does the applicant/licensee have lineal decadency from someone named on the tribe's base roll.
- Does applicant/licensee have a relationship with a tribal member who descended from someone named on the base roll?
  - If the applicant has indicated they may be a member of a tribe (via application or through interviews), the North American Indian Tribal Affiliation Verification CWL-120A must be completed.

(2) If an applicant is identified on the state central registry as a perpetrator of a child abuse or neglect in this state, or any other state, Canadian province, or as part of a tribe, the applicant shall not be licensed.

- If an individual has indicated they have resided on a reservation or has indicated they are a member of a tribe, contact with that tribe must occur to request any relevant background information.
  - Relevant background information includes safety related history such as abuse, neglect and criminal history.

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

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

R 400.9202 Member of household qualifications; central registry.
If an adult member of the household is identified on the central registry as a perpetrator of child abuse or neglect in this state, any other state, a Canadian province, or as part of a tribe, the applicant may not be licensed.

- If an adult household member has indicated they have resided on a reservation or has indicated they are a member of a tribe, contact with that tribe must occur to request any relevant background information.
  - Relevant background information includes safety related history such as abuse, neglect or criminal history.

Personal References

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

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

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

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

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

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

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

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

Medical Statements

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

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

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

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

information is included on the form:

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

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

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

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

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

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

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

- If there is a diagnosis of a mental health condition (anxiety, depression, bipolar disorder etc.), be sure to explain how the condition presented both prior to and after treatment.
    - Who is the prescribing/treating practitioner(s)? A mental health statement is needed for all mental health practitioners.

  Substance abuse issues: past and current
    - When did the abuse occur?
    - What substance?
    - What treatment was provided/is being provided?
    - Why did they turn to substances?
    - What have they learned from that experience?
    - How would they handle similar situations presently?

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

Foster Parent Training

R 400.12312 Foster parent training (CPA Rule)

(1) An agency shall develop a foster parent training plan with the participation of foster parents**.**
(2) The foster parent training plan must provide for all the following:
(a) Not less than 12 hours of training to be completed by each person named on the license before a recommendation is made for licensure, taking into account the individual training needs of the foster parents. Not more than **3** hours of orientation may be included

as part of the initial 12 hours of training.

(b) Not less than 6 hours of training annually for each licensee after the time periods specified in subdivision (**a**) of this subrule.

(3) The training specified in subrule (2)(a)-of this rule-must address all the following areas:

(a) Characteristics and needs of children who may be placed into the home.

(b) Safe sleep practices for infants.

(c) Effective parenting.

(d) Calming and soothing supports for children, including sensory modulation and de-escalation techniques.

(e) Importance of the foster child's parents and relatives.

(f) Concurrent planning.

(g) Role of the agency.

(h) Emergency procedures, first aid, and fire safety.

(i) Preparation of the foster child for permanence and independence.

(j) The role of the court and lawyer guardian ad litem in permanency planning.

(k) Reasonable and prudent parent standards.

(l) Firearm storage and safety.

(m) The unique needs of foster children based on individual identities related to culture, race and ethnicity, religion and spirituality, and SOGIE.

(n) Human trafficking.

(o) Trauma-informed parenting, including the effects of discipline in the household.

(4) At least 1 adult member of the household must have training in and maintain a current certification in first aid and cardiopulmonary resuscitation from the American Heart Association or the American Red Cross**,** or other institution approved by the department.

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

Useful Training Resources

A. Child Welfare In-Service Trainings
   i. All these trainings are MDHHS approved for meeting the in-service training hour requirements set forth by the department requiring all caseworkers to receive a minimum of at least 32 hours of in-service training hours annually, and supervisors 16 hours annually per SRM 103. Training participants may also earn CE Hours.

B. Ruth Ellis Center - www.ruthelliscenter.org
C. Human Rights Campaign - www.hrc.org
D. Please see CI 19-086 Practice Guide for Working with Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex and Two Spirit Youth in Michigan's Child Welfare System

R 400.9416 Foster parent training

(1) Each licensed foster parent must attend training as required by the agency**'s** foster parent training plan, totaling to at least 6 hours per year.

(2) At least 1 adult member of the household must have training in and maintain a current certification in first aid and cardiopulmonary resuscitation from the American Heart Association or the American Red Cross, or other institution approved by the department.

Rule Interpretation:

- The agency is to make an assessment of the training needs of each licensee during the original evaluation and at all subsequent reevaluations.
- Training content must include all rule-identified (CPA R400.12307 and CPA R400.12312) areas during the initial 12 hours of training and the 6 hours of annual training thereafter. Training is ongoing. If the applicant/licensee completes more than 12 hours of training before licensure, those training hours are not transferred over into the next reporting period for training requirements.
- A foster parent shall attend training as required by the agency foster parent training plan.
- Each licensee must have 12 hours of training prior to licensure.
- Each licensee must have six hours annually beginning when the original provisional license is renewed.
- Each licensee, where there are two or more caregivers, must have an individual training plan.
- The agency must document all training received by each licensee.
- Training may be delivered in whatever method the agency determines is appropriate. Training should not be a barrier to obtaining a license or maintaining a license, however, agencies are strongly encouraged to ensure that at least some training is obtained in a manner other than online. There is significant value in observing individuals participation and understanding during onsite training.
- Agencies should ensure that their applicants have received training related to the recommended service types.
- All applicants will be trained on Reasonable and Prudent Parenting and will be trained annually once a license is issued. (Annually starts at the Original Provisional License.)

Examples of training methodologies:

- Training delivered directly to the foster parent(s) by a certification worker or social service worker.
- Training delivered by another professional.
- Classroom offerings by the agency or another child placing agency.
- Training offered in the community on relevant topics, such as CPR and First Aid.
- Review of written material, online classes or recorded material that is determined to be relevant to fostering. The agency should have a discussion when written or recorded material is used to ensure there has been some educational value.

- Attendance at relevant workshops or conferences.
- Experiential training, such as attending an IEPC, working with a medical professional to meet the needs of a specific child in care, working with a therapist to learn how to manage the behavior of a specific child in care.
- Training on relevant topics, such as Diversity and Team Building, attended as a requirement of a foster parent's employment.

According to the U of M Injury Prevention Center Parents' Guide to Home Firearm Safety:

- In 2 out of 3 cases when a child or youth used a family member's firearm to commit suicide, the firearm was kept unlocked.
- In 2012, 46% of all youth suicides involved a firearm.
- 3 in 4 children aged 5-14 know where firearms are kept in their home.
- Over 41,000 children and youth are injured or killed by firearms each year.

MDHHS - Firearm Safety (michigan.gov)

- **Project ChildSafe**
  - Information on how to obtain a **FREE** firearm safety kit and where to obtain a **FREE** firearm trigger lock in all 83 counties in Michigan.
- **Gun Safety and Children** - CS Mott Children's Hospital | Michigan Medicine
  - Resources for:
  - Gun storage
  - Guns at homes of others
  - Teaching children about what to do in the presence of a gun
  - Adolescents, teens, and guns
  - Non-powder guns, BB guns, and toy guns
- **Firearms Laws of Michigan**
  - Information regarding firearm laws in Michigan as compiled by the Legislative Service Bureau Pursuant to Act 381 of the Public Acts of 2000 April 2021.
- **Parents' Guide to Home Firearm Safety**
  - Information regarding firearms safety among children and teens. Great resources for families.
- **Michigan Handgun Safety Course**
  - This course includes easy-to-understand handgun safety instructions alongside detailed illustrations, animations, and live-action videos in order to provide you with the education and skills necessary to be a knowledgeable and safe handgun owner. **This course is free of charge.**

Foster Home

R 400.9301 Maintenance (FH Rule)

(1) A foster parent shall ensure the home, grounds, and all structures on the grounds of the property are maintained in a clean, safe, and sanitary condition, and in a reasonable state of repair within community standards.

(2) A foster parent shall ensure that all animals are safe to be around members of the household and children who may be placed in the home. Animals must be vaccinated in accordance with the state, tribal, and local laws where the foster home is located.

(3) Children must be supervised during any water activity as appropriate for their age and functioning level.

(4) Swimming pools on the premises must meet all the following:

(a) State, tribal, and local safety requirements.

(b) Availability of rescue equipment at all times.

(c) A working pump and filtering system if the swimming pool cannot be emptied after each use.

(d) A swimming pool that cannot be emptied after each use must have a barrier on all sides and access through the barrier must be equipped with a safety device. For more information, access "Safety Barrier Guidelines for Residential Pools" on the U.S. Consumer Product Safety Commission website.

(5) Spas or hot tubs must have safety covers that are locked when not in use.

(6) There must be an alarm on any exterior door that leads directly to a pond or other body of water, and water rescue equipment must be available at all times.

Rule Interpretation:

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

- The level of housekeeping is objective. Look for general cleanliness and orderliness as they relate to health and safety:
- Are floors, furnishings, appliances, and walls kept clean on a regular basis?
- Are indoor "animal areas" clean and sanitized?
- Are outdoor spaces and property clean and uncluttered?
- Are clothing and bed linens laundered at least weekly and kept clean and fresh?
- Are the dishes washed regularly?
- Is the carpet stained, worn or dirty?
- Are any of the following present?
  - Torn screens, broken glass, bare electrical wires, missing outlet covers, loose handrails or lack of handrails on staircases

- Construction occurring; unfinished walls, floors, ceilings
- Holes in walls, floors, and ceilings; peeling paint
- Missing stairs and stair treads
- Bare mattresses on springs
- Lack of refrigeration
- Missing doorknobs
- Missing window and door screens
- Is there clutter? Does the clutter prohibit access to doors and windows? Does the clutter present a health and safety risk for the age of children in their home or children that may be placed?
    - Examples of significant safety issues:
        - Only areas that are not cluttered are the "walkways"
        - Objects in front of doors and windows
        - Furniture blocking windows
        - Cleaning supplies stacked on top of each other or not in an enclosed area
        - Small objects accumulated throughout the house and stacked up presenting a possible choking hazard for children

When determining if the property, structure, premises, and furnishings are adequately constructed and maintained to meet the needs of the foster children and household members, the following are to be considered:

- Are there mattresses on the floors? All mattresses are to be in a bed frame. If older children (13 and above) decide they would rather have a mattress on the floor than have a bed frame, this would be acceptable if there is a bed frame available.
- Where does the family eat? Do they have enough seats for everyone?
- Do they have wheelchair accessibility if there is someone in the home that uses a wheelchair?
- Do they have adequate furniture for the number of people that will be in the home?

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

- Are the animals always "put away" when you are at the house?
- Do they have good temperaments?
- Do they allow you to interact with the pet?
- Is the applicant/foster parent providing the proper safety precautions:
- Birds: Do they have clean cages?
- Reptiles: Are they in aquariums or other safe enclosures?
- Farm animals: Are they inaccessible to children or only accessible with supervision? Are barns and pens locked?
    - All animals are to have current vaccinations in accordance with laws of the local municipality as verified by the vaccination records.
- If the family has "exotic" pets, such as snakes, does the municipality

have regulations regarding those types of pets?

A water supervision plan must be documented for any foster home that includes a water hazard.

- When determining the supervision level of a water activity, the following should be considered:
  - Does the family have a plan and take pre-cautions to reduce the possibility that children gain access to a water hazard.
  - Does the plan ensure for supervision at all times?
  - Does the supervision plan take into consideration the age, development and ability of each child residing in the home?
  - Are proper floatation devices and rescue devices nearby?
  - Can all household members and foster children swim? If not, is there a plan for swimming lessons for children old enough to learn to swim?
- What type of water rescue equipment does the family have available? The type of rescue equipment needed will vary based on what the water hazard is. Rescue equipment must be manufactured as water rescue equipment: Ring Buoys, Life Hooks, Reach Poles etc.

Alarms must be placed on the exterior doors leading to pools, spas, hot tubs, ponds, or other bodies of water even if there are other precautionary methods in place. Be sure to verify that the alarms are CPSC compliant.

Considerations when assessing a home that includes a swimming pool:

- Please review the Safety Barrier Guidelines for Residential Pools and www.poolsafely.gov which offer handouts and short 30-60 second PSAs.
- Does the family pool have enacted safety regulations and laws for their community? Are they following those regulations and laws?
- What type of water rescue equipment does the family have available? The type of rescue equipment needed will vary based on what the water hazard is. Rescue equipment must be manufactured as water rescue equipment: Ring Buoys, Life Hooks, Reach Poles etc.
- Is the pool emptied after each use? If it cannot be emptied after each use is the pump and filtering system working properly and in good condition?
  - The applicant/licensee is to be asked what the routine is for keeping the pool maintained, the water area sanitized and safe.
  - When one looks at the water sanitation, is it clear and does it look clean?
- Is the side of the pool at least 48" tall?

- If not, what type of CPSC approved barriers are present? Barriers can include a fence or wall, side of above ground pool (as long as ladder is removable), door alarms on house door when used as a barrier. Self-closing/self-latching devices (located less than 54" from the bottom of the gate) must be used for access through barriers. A release mechanism on the pool side of the gate is required.
- Is the barrier where the pool accessed equipped with a safety device such as: self-closing and self-latching devices. Barriers should be located so as to prohibit permanent structures, equipment or similar objects from being used to climb the barriers.

- Does the individual supervising the children have their certification in CPR/first aid?

- Alarms must be placed on the exterior doors leading to pools, spas, hot tubs, ponds, or other bodies of water even if there are other precautionary methods in place. Be sure to verify that the alarms are CPSC compliant.

The water of the pools, spa, and hot tubs must be properly maintained, sanitized and safe. The U.S. Consumer Product Safety Commission indicates that each year, thousands of American families suffer swimming pool tragedies. The majority of the incidents involve drownings and non-fatal drownings of young children. These pool and spa injuries and deaths involve young children, ages 1 to 3 years old, and happen in residential settings. These tragedies are preventable. This U.S. Consumer Product Safety Commission (CPSC) offers guidelines for pool barriers that can help prevent most drowning incidents involving young children. For more information, call the CPSC's toll-free hotline at 1-800-638-2772 or visit its website at http://www.cpsc.gov

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

(1) A foster parent shall ensure that the foster home heat, light, and ventilation is adequate.

(2) A foster parent shall ensure that the foster home windows and doors are screened if used for ventilation. This subrule does not apply to those homes where windows or doors, or both, are not used for ventilation.

<u>Rule Interpretation:</u>

- Is the home comfortable, and with appropriate air ventilation?
- Are there adequate light fixtures for day and evening purposes?
- If the home is being inspected during the winter, are screens available for installation during warm weather?
- If screens are not available, does the home have central air conditioning?

- Is the heating system adequate for all areas of the home?

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

(1) A foster parent shall ensure that all the following items are maintained in safe condition:

- *Furnace.*
- *Water heater.*
- *Fireplace.*
- *Pipes.*
- *Radiators.*
- *Wood-burning stoves.*
- *Other flame-producing or heat-producing equipment.*

(2) Portable heating devices may not be used in bedrooms.

Rule Interpretation:

Considerations when assessing flame and heat producing equipment:

- Are regular maintenance checks done of the items listed in (a) – (g)? How often and are records kept?
- Are combustibles kept away from these devices?
- If there is an existing wood-burning device that is utilized for any purpose:
    - Do proper clearances exist around the device?
    - Was the device installed by a person qualified to do so?
    - Is there a safety barrier for equipment hot to the touch in place for young children?
- If there are questions regarding the safety of wood-burning devices, the local fire department may be a source for information or home inspection.
- Bedrooms must be free of portable heating devices at all times. Portable heating devices are devices that moveable. Non-portable devices are those that are designed by the manufacturer to be affixed to the structure of the home.

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

A foster parent shall ensure the foster home has or complies with all the following:

(a) A minimum of 1 flush toilet, 1 sink that has water, and 1 bathtub or shower that has running water, all of which must be in working order.

(b The temperature of water available from outlets accessible to a foster child may not exceed 120 degrees Fahrenheit.

(c) The foster home has bathroom facilities that are readily accessible to the foster child who regularly requires the use of a wheelchair, walker, or any other durable medical equipment.

(d) The foster home water supply is from a source that is approved for a private home by the health authority.

(e) All sewage is disposed of through a public system or, in the absence of a

public system, in a manner that is approved for a private home by the health authority.

An Environmental Health Inspection must be requested and received from the county health department if the home has a private water supply or a non-public sewage system for both original licenses and when a family relocates.

Environmental Health Inspections

R 400.12310 Initial evaluation. (CPA RULE)

(3) The agency must assess the following:

(l) Safety and maintenance of the applicant's house and property, including but not limited to: sufficient beds and sleeping space, pets, firearms, and other weapons, and water hazards.

R 400.9305 Bathrooms; water supply; sewage disposal. (FH RULE)

Rule 305. (1) A foster parent shall ensure the foster home has or complies with all the following:

(d) The foster home water supply is from a source that is approved for a private home by the health authority.

(e) All sewage is disposed of through a public system or, in the absence of a public system, in a manner that is approved for a private home by the health authority.

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

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

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

Inspection Request: When the agency is requesting an inspection, the certification worker completes Items 1–19 on the Environmental Health Inspection Request form (CWL-1787A) and forwards the form to the local health authority.

NOTE: Item 9 refers to the name and address of the certifying agency requesting the environmental health inspection. Please be sure to include the appropriate

email address to forward inspection results. Item 19: A licensing worker or supervisor must sign and date the request.

Inspection Reports: The local health authority completes the BCAL-1788, Environmental Health Inspection Report (Part-A), Water Supply and Sewage Disposal, as applicable, and returns a copy to the Child Placing Agency.

Payment: The health department will forward the inspection bill directly to DCWL via mdhhs-environmentalbillingdcwl@michigan.gov. Any questions pertaining to outstanding environmental health inspection payments should also be forwarded to mdhhs-environmentalbillingdcwl@michigan.gov.

Inspection Ratings:

- **"A" Rating:** Substantial compliance.

- **"B" Rating:** When a "B" rating is issued, the agency certification worker is to ensure that an agreement is developed to correct the rule violation(s) by the next annual inspection/report as specified on the report. A re-inspection by the health department is required within one year. It is the responsibility of the agency certification worker to schedule the re-inspection by submitting another CWL-1787A to the health department and ensuring that it is completed. **

- **"C" Rating:** Immediate and priority attention must be given to foster homes that receive an environmental health "C" rating. The agency certification worker is to ensure that an agreement is developed to correct the rule violation(s) within the time period specified on the report. A re-inspection is required at the end of the specified time period. It is the responsibility of the agency certification worker to schedule the re-inspection by submitting another CWL-1787A to the health department and ensuring that it is completed. **

    - "C" Ratings require variance approval.

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

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

there is an unsafe condition.

"C" and "D" ratings may be appropriate with a variance. The agency is to assess whether the variance "from the particular licensing rule or statutes would not jeopardize the health or safety of a child residing in the foster family home or foster family group home…" (Child Care Organizations Act 116 722.118(b)). The variance request must include documentation that the "C" or "D" rating does not jeopardize the health and safety of the occupants of the home. Example: the water tested as acceptable, but the septic system is undersized and the family has agreed to have it regularly pumped.

Prior to requesting a variance for a "D" environmental health rating, the child placing agency must identify a plan to resolve the non-compliance (if it can be rectified). Considerations include:

- Does the family have enough money to complete tasks recommended by the inspector?
    - If not, has FIG been applied for and approved?
- Has the family selected a qualified person/contractor to complete the work required by the inspector?
    - If so, what are the anticipated dates scheduled to begin and complete the project?

Health Inspection Frequency

Any foster home applicant that has a private water or sewer system must have an initial environmental health inspection unless they reside in an association with regulations governing mobile home parks.

A single inspection at the time of original evaluation is sufficient unless a re-inspection is warranted as indicated below. Initial health inspections are to be current (completed within the current enrollment period) and must be completed the local health department.

Re-inspections are required for homes that receive a "B" or "C" rating which must be done before the date indicated by the health department on the BCAL-1788.

A re-inspection should also be requested if the agency certification or foster care worker notes a potential problem during a routine home evaluation, such as standing water in the back yard or evidence there are problems with flushing the toilets. The agency certification worker must request re-inspections by completing Items 1-19 on the CWL-1787-A and forwarding it to the local health authority. A new request must be made for each re-inspection.

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

Rule Interpretation:

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

R 400.9306 Bedrooms (FH Rule)

(1) A foster parent shall ensure that bedrooms comply with all the following provisions:

(a) Provide an adequate opportunity for both rest and privacy and access to adult supervision as appropriate for the age and functioning level of each child. The use of video cameras in a bedroom of any foster child over the age of 2 is strictly prohibited.

(b) Have sufficient space for all the following:

(i) Occupants.

(ii) Beds with adequate head clearance for each child.

(iii) Space to store clothing and personal belongings.

(iv) A clear path to the bed, belongings, and the door.

(c) Have floor-to-ceiling permanently affixed walls, and painted or sealed surfaces, privacy barriers, and hazard-free flooring.

(d) Have a latchable door that leads directly to a means of egress. As used in this rule, latchable means that the door can be closed and will remain closed until someone opens it. Latchable does not mean lockable.

(e) Have at least 1 outside window that complies with all the following:

(i) Is accessible to the room's occupant or occupants.

(ii) Can be readily opened from the inside of the room.

(iii) Is of sufficient size and design to allow for the evacuation of the room's occupant or occupants.

(f) If a family member occupies or uses a level of a home that is above the second floor, then the building must have 2 exits to ground level, at least 1 of which must provide a direct means of egress to the outside at ground level.

(g) The bedroom must be free from of all the following:

(i) Furnace.
(ii) Water heater.
(iii) Portable heating devices.

(2) A room that is primarily used for purposes other than sleeping may not be used as a bedroom, and includes the following:

(a) A hall.
(b) A closet.
(c) A stairway.
(d) A garage.
(e) A shed.
(f) A detached building.
(g) A room or space, including an attic, that is accessible only by a ladder, folding stairway, or through a trapdoor.
(h) A common area of the home.

(3) A foster parent shall ensure that bedding and sleeping equipment comply with the following:

(a) The standards set forth in the U.S. Consumer Product Safety Commission, Safety Standards for Full Size Baby Cribs and Non-Full Size Baby Cribs; Final Rule, 16 CFR parts 1219, 1220, and 1500, (http://www.cpsc.gov) for the age of the child using the equipment.
(b) Pillows, linens, and mattresses must be clean, safe, age appropriate, and in good repair.
(c) Infants, birth to 12 months of age, must rest or sleep alone only in a crib, bassinet, or Pack 'n Play, based on the age, size, and needs of the infant.
(d) A foster parent must follow the department's safe sleep practices located at www.michigan.gov/dhhs.
(e) Objects may not be placed or draped over a crib, bassinet, or Pack 'n Play and an infant's head may not be covered during sleep.
(f) The foster parent must have the appropriate sleeping equipment available in the home prior to licensure or a change in terms for all children who will be covered under the terms of the license.

Rule Interpretation:

(1) (a) When determining if the bedroom has adequate opportunity for rest and privacy and access to adult supervision, the following are to be considered:

- Are the bedrooms for children on the same floor as the adults? Do they need to be, based on age and functioning level of children in the home or to be placed in the home?
- Is it a loft bedroom? Is the bedroom in the basement?
- Are the sleeping arrangements for foster children comparable to that of the rest of the family?

A variance to R.400.9306 (1)(c)(d) may be considered for loft bedrooms until the room can be brought into compliance. Prior to a variance

request, applicants/licensees should consult with a contractor to explore feasibility of adding a door or enclosing the room with a new wall to install a door. The request should also indicate that there is a carbon monoxide detector in a bedroom if a latchable door is impossible to install, per a contractor.

The agency is to assess whether the variance from the licensing rule would jeopardize the health or safety of a child residing in the foster family home or foster family group home. (MCL 722.118 (b)).

(b) Bedrooms are to have space for an individual's body size, personal belongings, and clear paths to the room contents and egress. A closet space, dresser, or other appropriate storage unit within the room may be used.

(c) Finished ceilings, walls, and floors are to be completed in bedrooms before an individual may use them as such. When determining if a space is a finished bedroom, the following are to be considered:

- Is there exposed wiring in the ceiling?
- Is the insulation exposed?
- Dirt floors are not acceptable.
- Are the floors cement/concrete? If they are, does the floor have a finish that is intended to be used in living space?
- Are the walls permanently affixed, i.e. are not movable?

If any of the above exists, other than cement/concrete floors, the home is in non-compliance with R.400.9306(1)(d). Cement/concrete flooring must be carefully evaluated, and a determination made that the floor has a finish that is acceptable for living space; i.e. the cement has been treated with a decorative stain or finish and is waxed/sealed.

(d) Hook and eye, sliding bolt locks, deadbolt locks, or any lock that prohibits egress that is installed on the outside of bedroom doors is not allowed and must be removed. Bedroom doors may have locks on them, but the locks must be able to be unlocked from the outside with a key and from the inside without a key. Nothing may be installed on a bedroom door that prevents egress from inside the room**.**

(e)(i)(ii)(iii) When determining if the bedroom window complies with this subrule, the following should be considered:

- The persons who will be using the bedroom must be able to exit through a window in the room.
- Can they show you how they would exit the window?
- The window in the room must lead directly to the outside of the home.
- If there are security bars on the bedroom windows, the bars must be

able to be opened from inside the room via a "panic-bar" release or a key that remains in the keyhole on all of the barred windows.

- Have the windows been opened to ensure they can be opened and that there is room to exit?
- Basement window wells are acceptable, as long as there are no covers that prevent the individual from getting out of the window well.
- If the windows are high up on the wall, can the window be accessed by the person who will use the room?
- Are the windows being blocked by furniture?

(2) (a-h) When determining if a room is primarily used as a bedroom, the following are to be considered:

- Is the room in question a walk-in-closet or landing? Bedrooms must be actual rooms.
- Are individuals sleeping in the living room, family room, or other room that is used by the entire family?
- Is it a re-purposed garage, but not renovated yet?
- Is it a motor home or camper on the property?

If any of the above is being used as a bedroom, the home is in non-compliance with R 400.9306(2).

(3) When determining if the bedding and sleeping equipment comply with the U.S. CPSC and the subrule (a-f), the following are to be considered:

- Does the crib have fixed sides?
- No latches may be attached to stop the crib from having a drop side.
- Has the crib been modified to accommodate the applicant's needs?
- Are there bumpers pads (thick or mesh) along the sides of the cribs?
- Are there blankets draped over the crib or stuffed animals or other soft toys in the crib?
- Are there cords, mini blind strings, or any other safety hazard near the crib?
- Mesh enclosures are prohibited.
- No objects may be placed over the crib or under the infant.
- Undersized cribs may be used as long as they fall under the Non-Full Size Crib definition outlined in the U.S. CPSC.
- Bassinets, pack "n" plays, or mesh may be used if they meet the CPSC standards and are appropriate to meet the needs of the child.
- Sleeping children 24 months or younger who fall asleep must be moved to an approved sleeping space. Ex: infant brought into the home in a car seat and sleeping needs to be taken out of the car seat and placed in the

approved crib.

- Trundle beds are acceptable beds.
- Types of beds that may be acceptable for older children (13 and above) are: Futons with appropriate mattresses, sofa beds, day beds, and mattresses on the floor (if preferred by the person sleeping on it and there is a frame available).
- Sleeping bags, cots, inflatable beds and roll-away beds are not acceptable permanent sleeping equipment.
- There must be enough beds/cribs set up in the home prior to licensure or change in terms of a license to meet the terms of the license.
- If the home is to be licensed for more than one child, age 0-2, the agency is to ensure that there is at least one crib in the home. The agency may not place any more than one infant in the home until another crib is set up and verified by the agency. Example: The applicant/licensee is licensed for 3 children, 0-17. One crib must be set up in the home and only one infant may be placed in the home. The other two beds may be another size.

R 400.9308 Telephone (FH Rule)

Rule 308.

(1) A foster parent shall ensure that a working telephone is available in the foster home or in close walking proximity to the foster home.

(2) A foster parent shall ensure that emergency telephone numbers, including Poison Control, are posted in a prominent place in the home.

(3) The foster parent must provide the telephone number to the certifying agency and inform the agency within 24 hours if the number changes**.**

Rule Interpretation:

The agency is to provide an assessment of how a determination has been made that the foster home is in close walking proximity to a phone. Considerations include: relationship with the phone owner, distance of phone owner, agreement from the phone owner to allow phone use ongoing etc.

R 400.9309 Wheelchair access; other durable medical equipment.

Rule 309. A foster parent shall ensure that a foster home that provides care to a foster child who regularly requires the use of a wheelchair, a walker, or any other durable medical equipment, is accessible.

Rule Interpretation:

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

R 400.9310 Smoking (FH Rule)

(1) An individual may not smoke any substance inside the foster home while

foster children are placed in the home.

(2) An individual may not smoke inside a vehicle while transporting foster children.

Rule Interpretation:

(1) Once a child has been placed in the home, no substances (cigarettes, marijuana, vaping etc.) may be smoked in the home. This includes when the foster child is not at home, but still placed in the home. An adult may smoke in an attached garage if there is a door that can be closed to keep the smoke out of the house.

(2) When a foster child is in a vehicle with an individual, no smoking is to occur in the vehicle.

R 400.9401 Child capacity; living arrangement (FH Rule)

Rule 401.

(1) Both of the following apply to the capacity of a foster home:

(a) Not more than 8 children under 17 years of age, including children of the foster parents, may live in or receive foster care in a foster home at any given time.

(b) If a foster home is concurrently licensed for child care, the total number of children under 17 years of age, including children of the foster parents, who live in or receive care in the foster home, may not exceed 12. The foster home must comply with all applicable licensing rules for both foster homes and child care homes.

(2) All children in the home must be treated equitably, meaning each child has similar sleeping arrangements as other household members.

(3) Foster parent or parents must designate sleeping arrangements that are appropriate for each child's age, SOGIE, medical and mental health needs, behavior, and history of abuse.

(4) A child who is non-ambulatory and cannot readily be carried by 1 member of the household must sleep in a bedroom that has a means of exiting at ground level.

(5) A child may not share a bedroom with a non-parent adult unless 1 of the following conditions exists:

(a) The child and adult are siblings.

(b) The child and adult are foster siblings who were sharing the bedroom prior to 1 of them turning 18 years of age.

(c) The child has a special medical need that requires the attention of an adult during sleeping hours.

(6) Each child must sleep alone or may share a bed with a sibling in a bed based on the functioning level, size, and other special needs of the child.

Rule Interpretation:

(1)(a)(b) To determine the number of children less than 17 years of age, birth, foster, guardianships, adopted, and relative children are all counted if they are less than 17 years of age. When a home is also licensed for childcare, the total licensed childcare capacity is counted. The number of childcare children being cared for at any one point in time may be less than the licensed capacity, but the licensed childcare capacity is the number that is to be used to determine the home's foster home capacity and compliance with this rule. No more than 12 children may be cared for if the home is concurrently licensed for childcare. As the child care rule has not changed, more than 8 total children in a concurrently licensed home still requires a variance for the child care license.

- An approved variance from Child Care Licensing is required prior to licensure as foster parents.

(3) Foster parent or parents must designate sleeping arrangements that are appropriate for each child's age, SOGIE, medical and mental health needs, behavior, and history of abuse. Considerations for determining sleeping arrangements for children:

- What are each bedroom occupant's needs/behaviors (physical aggression, sexualized behaviors, abuse history/triggers etc.
- How do all of the room occupants voice/report concern regarding room assignments?
- What are the developmental needs of all room occupants.
- The room occupant plan in place must assure the safety and supervision of everyone in the room.
- Be sure to verify that sleeping arrangement decisions are in compliance with CPA rules R 400.12310 and R 400.12404.

(5) (a)(b) If a foster child and a birth child or foster children have been sharing a bedroom and a sibling relationship exists, when the birth child or foster child turns 18 they may continue sharing the bedroom as siblings and be in compliance with the rule. A new foster child may not be placed in the bedroom with the now 18 year-old birth or foster child unless there is an approved variance, however, as the "sibling" relationship did not previously exist.

(5) (c) A child may share a bedroom with a non-parent adult if the child needs documented special medical attention throughout the night. The documentation should be provided by the medical practitioner and uploaded into the foster home file. If a child is sharing a bedroom with a non-parent adult because of a medical need the agency is to document:

- The child's need.
- Is the child expected to outgrow the medical problem?
- Expected time frames for this to occur.
- How privacy for the adult and child are to be assured.

(6) Each child must sleep alone or may share a bed with a sibling in a bed based on the functioning level, size, and other special needs of the child.

- Each child shall have their own bed prior to licensure and placement, except for siblings who have been assessed as appropriate for bed

sharing.

- The agency is to make a thorough assessment of each bed sharing sibling child's needs prior to arranging for them to share a bed. Considerations should include (but not limited to):
- Have the children shared a bed in the past?
- What special needs and behaviors does each child present with and would any of those cause a safety concern (history or physical, verbal or sexual acting out, enuresis etc.)?
- Is bed sharing in the best interest of each child?
- Is there a financial barrier to obtaining an additional bed? If so, how has your agency assisted with obtaining an additional bed?
- What age related needs for privacy does each child have?

Bedrooms (cont'd)

- **R 400.9401 Child capacity; living arrangement.**

  (2) All children in the home must be **treated equitably**, meaning each child has **similar sleeping arrangements as other household members.**

  (3) Foster parent or parents must designate sleeping arrangements that are **appropriate for each child's age, SOGIE, medical and mental health needs, behavior, and history of abuse.**

  (5) A child may not share a bedroom with a non-parent adult unless 1 of the following conditions exists:

  (a) **The child and adult are siblings**.

  (6) Each child must sleep alone or **may share a bed with a sibling in a bed based on the functioning level, size, and other special needs of the child**.

R 400.9402 Child placement (FH Rule)
A foster parent shall receive a foster child for care only within the approved placement specifications and the terms of the foster home license. Placement of a foster child must only be received from the agency that certified the home or from another agency with the prior approval of the agency that certified the home.

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

(1) Placement specifications include the characteristics, age, sex/gender, and race of children: preferred by the family; best served by the home; and of children who may not be placed in the home.
(i) The Michigan Department of Health and Human Services now defines sex to include gender identity. Therefore, variances are unnecessary to accept placement of a child who is transgender, and their gender identity matches the sex/gender outlined on the terms of the foster home license. The licensing term of LGBTQI2S should be included on the foster home license for families who are willing and able to accept placement of children who are transgender.

(2) Terms of the license include number of children who may be cared for at any one time (capacity) and the service types identified by the agency.
(3) Only the foster home's certifying agency may approve the placement of a child by another child placing agency. (Please reference the borrowed home rule, R400.12326.)
(4) Non-regulated family courts, i.e. courts that are not regulated as approved governmental units by the Division of Child Welfare Licensing, may not borrow foster homes unless there is an approved variance prior to the placement being made.

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

RECOMMENDATIONS SERVICE TYPES

The ages, sex/gender and number of children for whom the foster family may provide care must be included with assessments in the "Licensing Recommendation" section. Indicate the reasons for any limitations on the license. For example, "due to the number of bedrooms and the fact that all of the biological children are girls, only female foster children may be placed at this time."

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

Service types may only be added to the licensing terms once the family has completed training on that service type or has demonstrated they have experience working with those service types. Most new foster homes will only have the service types of related, unrelated and general care. Any additional service types can be added to the home as they gain experience or complete training that is documented in CWLM.

The Michigan Department of Health and Human Services now defines sex to include gender identity. Therefore, variances are unnecessary to accept placement of a child who is transgender, and their gender identity matches the sex/gender outlined on the terms of the foster home license. The licensing term of LGBTQI2S should be included on the foster home license for families who are willing and able to accept placement of children who are transgender.

Please see CI 19-086 Practice Guide for Working with Lesbian, Gay, Bisexual, Transgender, Questioning, Intersex and Two Spirit Youth in Michigan's Child Welfare System

Foster Care

R 400.9403 Foster parent duties (FH Rule)

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

(a) Cooperate with and assist the agency in the agency's implementation of the service plan for children and their families.

(b) Fully disclose to the agency information concerning a foster child's progress strengths, and needs.

(c) Provide written notification to the agency of the need for a foster child to be moved from the foster home not less than 14 calendar days before the move, except when a delay would jeopardize the foster child's care or safety or the safety of members of the foster family.

Rule Interpretation

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

(b) Foster parents must share information fully and truthfully with the agency regarding how foster children are doing. An agency may:

- Establish a set schedule for providing information, i.e. at monthly home visits.
- Provide directives on how information is to be provided. An agency is to be specific regarding who the foster parent is to contact within the agency when there is progress or a problem.
- Identify what types of information is expected to be provided, such as:
  - Progress in development.
  - Problem resolution.
  - Current problems in any area.
  - School difficulties.
  - Inability to get along with others.
  - Behaviors after family visits.
  - Changes in sleep patterns
  - Medication adjustments or changes in dose/prescription.

(c) Foster parents are to provide sufficient notice, at least 14 days, to allow for moves to be planned. This will enable the agency to locate the most appropriate placement to meet the child's needs and allow the child time for "goodbyes" to significant individuals, such as teachers, neighbors, and friends.

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

R.400.12313 Behavior support policy; life-saving intervention. (CPA Rule)

(1) An agency's behavior support policy must identify appropriate and specific methods of behavior support for foster children.

(2) An agency shall ensure that methods of behavior support for a foster child are positive, consistent, and compassionate based on each foster child's needs, stage of development, and behavior, and promote self-regulation, self-esteem, and independence.

(3) All the following are prohibited:

(a) Corporal punishment, any type of restraint, including physical, chemical, mechanical, or noxious substances; or any kind of punishment inflicted on the body.

(b) Confinement or seclusion in an area such as a closet or a room.

(c) Withholding food, clothing, rest, toilet use, or entrance to the foster home.

(d) Mental or emotional cruelty.

(e) Verbal abuse, threats, including the use of derogatory or discriminatory language, negative references to the child's or the child's family, SOGIE, yelling at youth, ridicule, or humiliation.

(f) Prohibiting visits or communication with a foster child's family.

(g) Denial of necessary educational, medical, mental health, or social work services.

(4) A foster parent may use life-saving intervention to prevent a foster child from harming himself or herself, and other persons.

(3)(b) When assessing for situations that may be confinement or seclusion, the following should be considered:

- CCO ACT 116 722.112b Definitions; scope. (1)(j) "Seclusion" means the involuntary placement of a minor child in a room alone, where the minor child is prevented from exiting by any means.
- Merriam-Webster Dictionary
  - Confine. 1a: to hold within a location. b: IMPRISON
- Instructing a foster child to spend time in their room for a reasonable amount of time is not necessarily considered seclusion or confinement.

"Seclusion" means the involuntary placement of a youth in a room alone, where the youth is prevented from exiting by any means, including the physical presence of a person if that staff person's presence prevents the youth from exiting the room.

R 400.9404 Behavior Support; life-saving intervention (FH Rule)

(1) A foster parent must follow the behavioral support plan developed for each foster child by the child's social services worker.
(2) A foster parent may use methods life-saving intervention to prevent a foster child from harming himself or herself, or other persons.

Rule Interpretation:

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

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

(2) Lifesaving intervention may be necessary to prevent the child from severely harming themselves or others. Some examples of situations that may warrant lifesaving intervention include, but not limited to:

- A child running towards the road.
- A child actively attempting to do self-harm (head banging, cutting, use of other weapons etc.).
- A child attempting to ingest hazardous materials.

R 400.12314 Religion and spirituality. (CPA Rule)

`(1) An agency must ensure that the foster child may participate or choose not to participate in religious or spiritual instruction, engage or choose not to engage in religious or spiritual practices, or attend or choose not to attend religious or spiritual services.
(2) A foster child may not be required to attend religious or spiritual services or follow specific religious or spiritual doctrine.

R 400.9405 Religion and spirituality. (FH Rule)

(1) A foster parent must, at a minimum, ensure that the foster child has the opportunity to receive religious instruction and may participate or choose not to participate in religious or spiritual instruction, engage or choose not to engage in religious or spiritual practices, or attend or choose not to attend religious or spiritual services.
(2) A foster child may not be required to attend religious or spiritual services or follow specific religious or spiritual doctrine.

Rule Interpretation:

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

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

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

R 400.12315 Communication (CPA Rule)
An agency must ensure that a child is able to communicate with family and friends in a manner consistent with the child's expressed wishes, appropriate to the child's functioning, and in accordance with the child's treatment plan.

R 400.9406 Communication (FH Rule)
A foster parent must comply with the agency's communication policy and ensure that a child is able to communicate with family and friends in a manner consistent with the child's expressed wishes, appropriate to the child's functioning, and in accordance with the child's treatment plan.

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

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

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

- Restrictions on calls and cell phones, regardless of who provides the cell phone.

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

R 400.12409 Education (CPA Rule)
Rule 409. An agency must ensure that, within 5 school days of placement, an agency shall provide for the enrollment of each child of school age, as defined by state law, into a school program.

R 400.9407 Education (FH Rule)
(1) Within 5 school days of placement, the foster parent must enroll each child of school age, as defined by state law, into a school program.
(2) A foster parent must cooperate with the agency to implement the education or training plan for a foster child to ensure that a school age child attends school or a training program and will participate with the school or the training program in education planning.

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

Foster parents are expected to:

- Ensure that a child attends school on a regular basis.
- Cooperate with birth parents who wish to be involved in the educational planning for their child when the agency determines this is appropriate.
- Participate in planning a child's educational program, including attending IEP meetings.
- Attend parent/teacher conferences.
- Co-operate with school personnel when a child experiences educational or behavioral problems at school.
- Monitor study time/homework completion.
- Homeschooling is not an allowable alternative for DHHS foster children or foster children served by agencies under contract to DHHS.
- An online school may be an appropriate method of attending school if the youth has been expelled from school. A policy variance is needed for a

DHHS or contract agency supervised foster youth. Many schools include some online school programs within the traditional school program. This is acceptable.

- Any non-traditional school program requires a policy variance.

R 400.12316 Personal possessions (CPA Rule)

An agency must ensure all the following:

(a) That a child has a right to have his or her personal possessions during placement with a foster family and when leaving the foster family.
(b) Safe storage of a child's personal possessions.
(c) That all gifts and clothing that are given to or purchased for the child during placement with the foster family remain the property of the foster child.

R 400.9408 Personal possessions (FH Rule)

A foster parent shall comply with the following:

(a) Ensure that a child has his or her personal possessions during placement with the foster family and has them returned when leaving the foster family.
(b) Safely store a child's personal possessions.
(c) All gifts and clothing that are purchased for the child during placement with the foster family remain the property of the foster child.

<u>Rule Interpretation:</u>

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

- The agency is to either make a list or have the foster parent make a list of all the child's possessions at the time of placement. The list is to be kept current for the duration of the child's placement.
- If certain items are determined to be unsuitable for a child, via the case management team and foster parent, the items should be kept safely while the child is in placement or returned to the legal parent. The child's case manager must be included in this decision and assist with determining the most appropriate arrangement to store the item.
    - Consideration should be given to memories associated with certain possessions before foster parents attempt to replace and/or remove an item.
    - Consideration should be given to electronic devices which the child may need assistance in limiting contact with outside induvial.
    - Consideration should be given to the safety of the item in a child's direct possession.

R 400.12317 Allowance and money policy (CPA Rule)

(1) The agency must specify the following:

(a) General guidelines that provide monetary range based on a child's age.

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

(c) How the agency monitors allowance.

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

R 400.9409 Allowance and Money (FH Rule)

(1) A foster parent must apply both of the following regarding a child's allowance and money:

(a) General guidelines that provide a monetary range based on a child's age.

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

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

Rule Interpretation:

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

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

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

R 400.12318 Clothing (CPA Rule)

The agency foster parents must specify both of the following:

(a) That a foster child has the minimum required clothing specified by the agency's policy and leaves the foster home with not less than the minimum required clothing.

(b) All clothing the child has when he or she arrives at the foster home and all clothing purchased for the child while in the foster home remains the property of the foster child, unless returned to the child's parent or parents.

R 400.9410 Clothing (FH Rule)

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

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

unless returned to the biological parent or parents.

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

R 400.12323 Emergency Procedures (CPA Rule)
(1) An agency must specify procedures for each of the following situations:
(a) Fire.
(b) Tornado.
(c) Serious accident or injury.
(d) Epidemic.
(2) An agency shall approve the written evacuation plan for a foster home that provides care for a person who requires assistance to evacuate the home.

R 400.9411 Emergencies (FH Rule)
(1)A foster parent must have a written emergency evacuation plan displayed in a prominent place in the home.
(2) A foster parent must familiarize each member of the household, including the foster child according to the child's ability to understand and persons who provide care and supervision, with the emergency and evacuation procedures.
(3) A foster parent must maintain first aid supplies in the home.

Rule Interpretation:
(1) There are to be a clear explanation of what types of accidents and injuries the agency considers serious. The procedures may cover other types of emergencies that the agency expects the foster parents to be able to handle.
(2) When care is provided to a person who needs assistance in evacuating the home, written procedures for getting the person out of the home are to be prepared and approved by the agency.
(3) The foster parent is responsible for making sure that all members of the household, including foster children, and all substitute caregivers are familiar with all emergency procedures. Foster parents should have regular fire drills, especially when a new placement is made at the home.

R 400.12413 Medical and dental care policy (CPA Rule)

(1) An agency's medical and dental care policy must include all of the following:

(a) The provision of routine medical care.

(b) The provision of emergency medical, surgical, and dental care.

(c) A physical examination for each child as follows, unless a greater frequency is medically indicted:

(i) A comprehensive medical examination, including a behavioral/mental health and trauma screening, within 30 calendar days from the date the child entered into an out-of-home placement, regardless of the date of the last physical examination.

(ii) A physical examination every 14 months.

(d) Current immunizations for each child as required by section 5111 of the public health code, *1978 PA 368 MCL 333.5111. All the following apply:*

(i) A statement from the parent or licensed medical authority which indicates that immunizations are current or contraindicated is sufficient documentation of immunizations.

(ii) A copy of a waiver addressed to the department that is signed by the parent stating immunizations are not being administered due to religious, medical, or other reasons is sufficient documentation of immunizations, unless the child is a temporary court ward, a motion is heard, and order is entered by the circuit court for the child's case. A waiver must be accompanied by a certification by the local health department that the parent or parents received education on the risks of not receiving the vaccines being waived and the benefits of vaccination to the individual and the community as required by section 5111 of the public health code, 1978 PA 368, MCL 333.5111, and R 325.176(12).

(iii) If documentation of immunization or a copy of the waiver is unavailable, then immunizations must begin 30 calendar days of placement.

(e) A dental examination must be completed within 3 months before entry into foster care or an initial dental examination must be completed not more than 90 calendar days after entry into a foster care out-of-home placement. A child entering foster care under 1 year of age must have an initial dental exam within 3 months of his or her first birthday.

(f) A dental re-examination must be obtained at least every 9 months unless a greater frequency is indicated.

(g) An agency shall have documentation from the medical or dental provider of all medical and dental care received by the foster child.

R 400.9412 Medical and dental care (FH Rule)

(1) A foster parent shall follow the health plan for a foster child as prescribed by a physician, health authority, or the agency.
(2) A foster parent shall follow agency approved protocols for medical care of a foster child who is injured or ill.
(3) A foster parent shall ensure that all medications, both prescription and nonprescription, are properly stored and are accessible as appropriate for the age and functioning level of the child.
(4) A foster parent shall ensure that prescription medication is given or applied as directed by a licensed physician.

Rule Interpretation:

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

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

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

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

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

(3) Agency policy is to identify who may make a decision for a child to have access to medication and under what circumstances this may occur. Foster parents are to assure that all medication, both prescription and over-the-counter, is kept in a safe, secure location. Medication should be locked if children can access it. Foster children are not to be solely responsible for taking their medication as prescribed. Foster parents are to ensure the medication is taken at the appropriate times.

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

R 400.12319 Transfer of enrollment or license.

(1) Prior to requesting the transfer of an enrollment or license, the receiving agency must provide the applicant/licensee with the following:
(a) Orientation of the receiving agency.
(b) Application.
(2) The current certifying agency must provide the receiving agency with the following:
(a) The most recent application for a license.
(b) The initial evaluation and current reevaluation and any other relevant licensing home study reports.
(c) The most recent copy of the licensing transaction record.
(d) All completed special evaluation reports and any associated corrective action plans.
(e) All record clearance documents for all members of the household, including any administrative review team assessments.
(f) Other information that might assist the agency considering the transfer with making an informed decision.
(3) The agency considering the transfer must review all information in subrule (2) of this rule. Prior to acceptance of the transfer, the receiving agency must make at least 1 home visit.
(4) If the agency considering the transfer declines to accept a transfer of the license or enrollment, the agency must inform the applicant or licensee in writing and provide a copy to the certifying agency.
(5) Written approval must come from the receiving agency's chief administrator or his or her designee prior to the transfer of the license during a special evaluation. When a license is transferred during a special evaluation, the receiving agency must complete the special evaluation.
(6) Written approval must come from the receiving agency's chief administrator or his or her designee prior to the transfer of the license during a provisional status.
(7) If there is an existing corrective action plan, the receiving agency is responsible for ensuring compliance.
(8) Transfer of a license during a pending disciplinary action must be approved by the department prior to the transfer.
(9) The receiving child placing agency must submit transfer documents to the department within 7 calendar days after the decision has been made to accept the transfer.

All transfers of enrollment or licensure must be complete in CWLM. Please reference the Business Process on the CWLM Communications website for detailed information regarding how to process a transfer. The current certifying agency will provide the requested information via CWLM along with a courtesy assignment to the requesting CPA for access to the provider record.

R 400.12322 Unusual Incident Policy (CPA Rule)

(1) An agency's unusual incident policy must include immediate notification to the agency by the foster parent of any of the following incidents:

(a) The death of a foster child.

(b) The removal or attempted removal of a foster child from a foster home by any person not authorized by the agency.

(c) The foster child is missing.

(d) Any illness that results in treatment at a hospital emergency room or inpatient hospitalization of a foster child.

(2) An agency's unusual incident policy must include notification to the agency by the foster parent of any of the following incidents within 24 hours of knowledge of the incident:

(a) A foster child's involvement with law enforcement authorities.

(b) Pregnancy of a foster child.

(c) Incidences of child-on-child abuse.

(d) Involvement with law enforcement by anyone in the home pursuant to a criminal investigation.

R 400.9414 Unusual incident notification.

(1) A foster parent must immediately notify the agency regarding any of the following:

(a) The death of a foster child.

(b) The removal or attempted removal of a foster child from a foster home by any person not authorized by the agency.

(c) The foster child is missing.

(d) Any illness or serious injury that results in inpatient hospitalization of a foster child.

(2) A foster parent must notify the agency within 24 hours after the foster parent knows of any of the following:

(a) Any injury of a foster child that requires medical treatment by a licensed or registered health care person.

(b) A foster child's involvement with law enforcement authorities.

(c) Pregnancy of a foster child.

(d) Incidences of child-on-child abuse.

(e) Involvement with law enforcement by anyone in the home pursuant to a criminal investigation.

<u>Rule Interpretation:</u>

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

- Has the foster parent contacted the person identified by the agency?
- Was the contact with the agency made using the identified method of

contact, i.e. phone/text/email?

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

R 400.12321 Hazardous materials policy. (CPA RULE)

(1) Federal standards for a foster family or group home include specific safety requirements for weapons, pools, hot tubs, and spas, as these pose a particular preventable danger to children.
(2) Dangerous equipment and objects, weapons, chemicals, medications, poisonous materials, cleaning supplies, and other hazardous materials that may present a risk to children placed in the foster home must be stored securely and out of the reach of children, as appropriate for the age and functioning level of the children.
(3) Unless carried in the licensed home and on the licensed property as permitted by law, firearms and ammunition must be stored as follows:
(a) Firearms must be all the following:
(i) Locked in compliance with 1 of the following:
(A) By a cable-lock.
(B) By a trigger-lock.
(C) In a gun safe.
(D) A solid metal gun case.
(E) A solid wood gun case.
(ii) Unloaded.
(iii) Separate from ammunition; however, as long as the firearm is stored in compliance with paragraph (i)(C) to (E) of this subdivision, the ammunition may be stored together with the firearm in the same locked safe or case.
(iv) Inaccessible to children.
(b) Ammunition must be stored in a locked location and inaccessible to children.
(c) All applicable laws regarding the possession, use, transportation, and storage of firearms and ammunition, including for hunting, still apply.
(d) Licensees with a CPL may possess a firearm pursuant to the law in a vehicle on the licensed property, provided it is done so in a manner that prevents foster children from having access to it, such as being on the licensee's person or stored in a locked container.
(e) Licensees may engage in hunting, range shooting, and target practice with a foster child in accordance with the reasonable and prudent parent standard as defined in section 1 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.

R 400.9415 Hazardous materials. (FH Rule)

(1) Federal standards for a foster family or group home include specific safety requirements for weapons, pools, hot tubs, and spas, as these pose a particular preventable danger to children.
(2) Dangerous equipment and objects, weapons, chemicals, medications, poisonous materials, cleaning supplies, and other hazardous materials that may present a risk to children placed in the foster home must be stored securely and out of the reach of children, as appropriate for the age and functioning level of the children.
(3) Unless carried in the licensed home and on the licensed property as permitted by law, firearms and ammunition must be stored as follows:
(a) Firearms must be all the following:
(i) Locked in compliance with 1 of the following:
(A) By a cable-lock.
(B) By a trigger-lock.
(C) In a gun safe.
(D) A solid metal gun case.
(E) A solid wood gun case.
(ii) Unloaded.
(iii) Separate from ammunition; however, as long as the firearm is stored in compliance with paragraph (i)(C) to (E) of this subdivision, the ammunition may be stored together with the firearm in the same locked safe or case.
(iv) Inaccessible to children.
(b) Ammunition must be stored in a locked location and inaccessible to children.
(c) All applicable laws regarding the possession, use, transportation, and storage of firearms and ammunition, including for hunting, still apply.
(d) Licensees with a CPL may possess a firearm pursuant to the law in a vehicle on the licensed property, provided it is done so in such a manner to prevent foster children from having access to it, such as being on the licensee's person or stored in a locked container.
(e) Licensees may engage in hunting, range shooting, and target practice with a foster child in accordance with the reasonable and prudent parenting standard as defined in section 1 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.

The agency's hazardous materials policy is to include a requirement that the foster home applicant/licensee will notify the agency any time they purchase additional weapons or add weapons if none exist in the home at the time of licensure.

A variance to Foster Home R 400.9415 may be considered for individuals who have an occupational requirement to have loaded firearms in the home, such as law enforcement. The variance request would need to identify the specific employment policy that requires the loaded firearm in the home and verification from the employer that this is the policy. The variance request must outline a specific safety plan to ensure that the firearm is inaccessible to children.

(2) Rule Interpretation:
When determining if the dangerous and hazardous materials, objects, weapons, chemicals, medication, and other equipment is stored correctly, the following are

to be considered:

- Is the storage safe given the ages and needs of the children in the home?
- Where are cleaning chemicals stored?
- Where is alcohol stored?
- Where are the power tools and yard tools stored?
- All medication is to be stored securely and out of the reach of children based on FH R.400.9412 (3).
- Recreational Marijuana –
  - Agencies and foster parents/applicants will want to familiarize themselves with Michigan Recreational Marijuana laws and contact local law enforcement or government for guidance regarding local ordinances.
  - If applicants or adult household members use recreational marijuana, it should be assessed similar to alcohol consumption and storage.
  - Individual must be 21 year of age or older to us recreational marijuana or alcohol.
  - In what form is the product used? If smoked or vaped, use may not take place in the home.
  - Is marijuana stored safe and inaccessible, similar to prescribed and over the counter medication?
  - How often does applicant use?
  - Does there need to be a driving, supervision, or safety plan in place for time when caregiver has used and is under the influence?
  - Do local ordinances allow for possession and use of recreational marijuana.
  - If applicants or adult household members are growing medical or recreational marijuana, areas to assess include:
    - local ordinances, medical and recreational marijuana laws
    - secure location
    - fire/carbon monoxide detectors in grow areas
    - ventilation/smell

<u>FIREARMS STORAGE - Frequently Asked Questions</u>

Q: Can foster parents store the ammunition in the same gun safe that the gun is locked in?
A: Yes, ammunition can be stored in the same gun safe or solid wood/metal gun case, as long as they are manufactured for gun storage.

Q: Can foster parents store their guns loaded, as long as they are locked?
A: No, all guns must be stored unloaded.

Q: Can foster parents store their guns in a multipurpose lock box?
A: Yes, as long as the gun is also trigger locked.
Q: Do foster parents have to use a trigger lock for all guns stored?

A: No, guns stored in a gun safe (manufactured as a gun safe) or a solid wood/metal gun case do not need to be trigger locked.

Q: Do foster parents have to store all of guns exactly the same way?
A: No, firearm owners can choose from multiple options for safe storage of firearms when they're not in use, as long as each method is in compliance with the licensing rules.

Q: Can foster parents decide to store firearms above and beyond what is outlined in the licensing rules?
A: Yes, as long as rule requirements are met foster parents can decide to include additional safety measures for their gun storage.

Q: Can a child placing agency implement a policy that is more restrictive regarding gun storage.
A: No, per child placing agency rules the child placing agency may not have a more restrictive policy than the licensing rules.

Q: Can foster parents who maintain a CPL carry loaded handguns in the foster home?
A: Yes, as long as the gun remains on their person. Once the gun is no longer on their person, it must be stored per licensing rules.

Q: Can a foster parent store their gun with only a trigger lock?
A: Yes, as long as the location has been assessed to be stored securely and out of the reach of children, as appropriate for the age and functioning level of the children.

Q: Where can foster parents obtain trigger lock?
A: Project ChildSafe locations, many local fire/police stations, local stores and online stores. Some of these options provide free trigger locks.

Q: Are paintball guns and bb guns considered firearms?
A: No. While they do not fit the definition of a firearm and are not required to be stored in the same way as a firearm, they may present a risk to children and must be stored securely and out of the reach of children, as appropriate for the age and functioning level of the children.

R 400.9417 Food and nutrition (FH Rule)

(1) A foster parent shall provide a foster child with meals that are nutritious, well- balanced, and of sufficient quantity.

(2) A foster parent must allow the foster child to eat with other members of the family and serve a foster child the same meals as other members of the household, unless a special diet has been prescribed by a licensed physician or unless otherwise dictated by differing

nutritional requirements related to the child's age, medical condition, or religious beliefs.
(3) A foster parent shall ensure that refrigeration is used for perishable foods.
(4) If milk is being provided to foster children, ~~A~~ foster parent may only serve pasteurized milk products to foster children.

Rule Interpretation:

(1) (2) The foster parent is expected to provide nutritious, well-balanced meals for foster children.

- Foster parent training should sensitize foster parents to foster child issues that may be related to food. Many children entering care will not be used to eating well-balanced meals and may have a difficult time adjusting to a new diet. Some children will hoard food or over-eat as a result of their past experiences.
- Some children will not want to eat the meals made. They may not be familiar with the foods being served. Food is not to be withheld from children because they do not like or will not eat the meal created. The agency is to help foster parents with food related issues.
- Foster parents also need to be sensitive to food related issues when fostering children from different cultures or religions. The agency is to make the foster parent aware of any dietary restrictions related to religious beliefs prior to making a placement when those restrictions are known.

(3) If a prescribed special diet for a foster child is more costly than a routine diet and this cost is a burden for the foster parent, the agency should evaluate whether a higher determination of care rate is appropriate.
(4) Foster children should eat meals with other members of the household. This does not prevent a foster parent from sending a child away from the table on occasion as a behavior management technique, but food may not be withheld as a discipline technique.
(5) A special diet for medical reasons may only be prescribed by a physician.

R 400.9418 Foster child tasks (FH Rule)

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

Rule Interpretation:

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

- Tasks should be assigned/allowed based on the capabilities and level of functioning of each child. Mowing the lawn and babysitting are common considerations.

- If allowance is given for household chores, the provision of allowance must be consistent with the agency's policy on allowance per FH R 400.9409.
- Foster children must not be the only household members routinely expected to complete chores and other household tasks. Tasks should be similar to the expectations of other children in the home.

R 400.9419 Recreation (FH Rule)
A foster parent must provide opportunities for, and encourage a foster child to participate in, a variety of indoor and outdoor recreational activities that are appropriate for the child's age and ability.

Rule Interpretation:

- There must be both indoor and outdoor play space available. If play space is not available at the foster home, the foster parent must clearly identify where children can play and how this alternative will be made accessible on a regular basis.
- Recreational activities such as fishing, water skiing, snowmobiling, snow skiing, should be assessed on an individual basis according to skill level and should include supervision by an adult. Any recreational activity that includes the use of weapons must be in accordance with the Reasonable and Prudent Parenting Standard (which may require prior approval from caseworks, court, or parent).
- Foster youth are to be encouraged by foster parents to participate in recreational activities such as school clubs, music, scouts, sports teams, etc. It is expected that nominal fees for such activities should not prevent participation.

R 400.9420 Transportation (FH Rule)

(1) All transportation must be done in a safe, responsible manner.
(2) A foster parent shall ensure that the transportation of the foster child, foster parents, and members of the household is conducted as required by state laws regarding transportation in a motor vehicle.

Rule Interpretation:

- The agency is to clearly identify expectations regarding transportation.
- Public transportation may be utilized if the foster parent can meet the child's needs using this method of transportation.
- The foster parent must have a valid driver's license and insurance if they will be transporting foster children for the agency in a private vehicle. The agency is to verify driver's licenses and proof of vehicle insurance.
- If the foster parent arranges or allows the foster child(ren) to be transported by another person or persons, the foster parent must make sure that this person is a safe driver and has the appropriate licensure and insurance as well. It is the foster parent's responsibility to make sure they

are only allowing those abiding by the state laws regarding transportation in a motor vehicle to transport foster children.

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

Reporting and Recordkeeping

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

(1) A foster parent who has reasonable cause to suspect physical or sexual abuse or neglect of a child must make a report immediately to the child protective services intake unit of the Department.

(2) If the suspected abuse or neglect occurred in the foster home or to a foster child placed in the foster home, then a foster parent must make a report immediately to both of the following entities:

(a) The child protective services centralized intake unit of the Department.

(b) The agency.

(3) The foster parent shall provide a written report as required by section 3 of the child protection law, 1975 PA 238, MCL 722.623.

Rule Interpretation:

- The agency is to provide the foster parent with the telephone number of the Children's Protective Services (CPS) centralized intake unit.
- If suspected abuse or neglect occurred outside the foster home, the foster parent must notify CPS. If the abuse or neglect occurred in the foster home, or to a child placed in the home, the foster parent must notify the agency in addition to notifying CPS.
- Agency should provide clear timeframes for the foster parents to complete the required reports. The reporting requirements communicated with foster parents should clearly state how the written report must be made, when the report is to be made, to whom the written report is to be submitted, and what the report contents must cover. The agency is to review the requirements of 1975 PA 238 when creating the requirements to ensure they comply with legal requirements.

R 400.9502 Reporting foster home changes (FH Rule)

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

(a) Serious illness, injury, or death of a foster parent.

(b) Changes in household composition.

(c) Arrests and criminal convictions of a foster parent or member of the household.

(d) Court-supervised parole or probation of a foster parent or member of the household.
(e) Admission to, or release from, a correctional facility, a hospital, or an institution for the treatment of an emotional, mental, or substance abuse problem of a foster parent or member of the household.
(f) Assessment, treatment, or therapy on an outpatient basis for an emotional, mental, or substance abuse disorder of a foster parent or member of the household.
(g) Any revocation or modification of a driver's license.
(h) Any major changes or renovations to the structure of the foster home.

Rule Interpretation:
Items (b) through (f) that refer to "member of household" include birth children, adopted children and children cared for under guardianship as well as any identified adult household members.

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

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

R 400.12325 License recommendation.
(1) An agency shall recommend to the department the appropriate licensing action consistent with facts contained in the foster home evaluation and any special evaluations.
(2) An agency shall document foster home license changes in the foster home record and communicate the changes immediately to the department in the manner prescribed by the department.
(3) Except for an original license, an agency shall recommend to the department the issuance of a regular license or the continuation of an active license only when all rules are in compliance or both of the following conditions exist:
(a) All non-compliances relating to the recommendation are correctable.
(b) A written corrective action plan has been developed. The plan must comply with all the following requirements:
(i) Upon determining a rule noncompliance that is correctable by the foster parent, the agency must develop a written corrective action plan with the foster parent on the form prescribed by the department.
(ii) Be completed within 6 months of being signed.
(iii) Be signed and dated by the foster parent and the agency.
(4) Except for an original license, an agency shall recommend to the department the issuance of a provisional license only when all of the following conditions exist:
(a) The foster parent has signed an acceptable corrective action plan.
(b) The foster parent has been informed, in writing, of the facts and the basis for the provisional license.
(c) The foster parent has been notified of his or her right to appeal the provisional license.

(5) An agency shall recommend to the department the denial of license issuance, the revocation of a license, or the refusal to renew a license when all ~~of~~ the following conditions exist:
(a) The applicant or the foster parent falsifies the application, or the applicant or the foster parent willfully and substantially violates the act or 1 or more of the licensing rules for foster homes.,
(b) The agency has provided the applicant or the foster parent with all the following:
(i) A copy of the special evaluation report outlining the facts and the basis for the recommended action.
(ii) Written notice that the agency's recommendation for disciplinary action has been referred to the department for a final decision.
(iii) Written notice to the applicant or foster parent of their right to appeal the department's decision for licensing action.
(6) An agency shall provide the department with all documentation that details the basis for the agency's recommendation or any requested documentation for a department licensing action.
(7) An agency shall participate in, and present facts at, a foster home licensing administrative hearing to support an agency recommendation or a department licensing action.

Changes

If changes to the license are recommended by the agency as a result of the assessment of reported changes in the foster home, these changes must be completed immediately via the Child Welfare Licensing Module. Changes pertain to any of the following:

- The age range of foster children that may be placed
- The capacity (within the legal capacity for the type of license i.e. 1-4 for a foster family home and 5-6 for a foster family group home)
- Service types (adding or removing)
- The gender of the foster children that may be placed (male, female or both)

If the change involves adding or removing a licensee from the foster home licensee group, a CWL-3889 for the new licensee group and a CWL-1326AH for each adult household member must be submitted. If an applicant has previously been fingerprinted via the active license, they do not need to be fingerprinted again. New applicants must be fingerprinted.

Please reference the CWLM business processes provided on the CWLM public communications website.

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

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

(1) A foster parent shall notify the agency within 5 calendar days after filing an application for an adult foster care family home license, a family child care home certificate of registration, or a group child care home license.

(2) If the foster home is licensed concurrently as an adult foster care family home or a child care group home or registered as a family child care home, the foster parent must notify the agency if there is a change in the terms of the adult foster care or child care license or registration.

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

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

The capacity for the child care license and the foster home license is used in the equation regardless of the number of children currently in care for either license. Some applicants may need to adjust their child care license capacity to be in compliance with both rule sets.

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

Rule Interpretation:
When the family notifies the agency of a move, an application (BCAL-3889) for the new address must be obtained along with a Record Clearance (CWL-1326CW) for any added adult member of the household. As with a change in licensee group (See **CPA R 400.12309**) any added applicants/licensees who have not been fingerprinted must be fingerprinted. The agency is to assess the new home for compliance with the applicable Licensing Rules for Foster Family Homes and Foster Family Group Homes immediately.

***For actions in CWLM, see the most current business process located on the CWLM public communications site.

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

R 400.9505 Confidentiality (FH Rule)
(1) A foster parent shall keep information and records obtained by the foster parent regarding a foster child and a foster child's parents and relatives confidential under section 10(3) of the act, MCL 722.120.
(2) The requirements in subrule (1) of this rule may not prohibit a foster parent from communicating with any person representing the foster parent in an administrative or judicial proceeding involving the foster parent in licensing, Central Registry expunction, or any civil matter.

Rule Interpretation:

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

R 400.9506 Record management (FH Rule)
(1) A foster parent shall store and maintain all records received on behalf of the child.
(2) When a foster child moves from the foster home, all records regarding that child must be returned to the agency.
(3) Upon closure of the foster home license, all records provided by the child placing agency must be returned to the agency.

Rule Interpretation:

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

Initial Evaluations, Re-Evaluations and Placement Agreement

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

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

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

Since a substantial amount of communication takes place non-verbally, in person interviews are best practice and should be completed whenever possible. Sensitive topics should always be discussed in person. Written communication may be warranted for non-sensitive follow up information i.e.

document collection, simple follow etc.

Rules Compliance Record (CWL-3080)
The purpose of the Rules Compliance Record is to summarize the findings of home visits pertaining to Initial Evaluations and Re-evaluations of the applicant/licensee and their home with regard to rule compliance. The certification worker should explain the purpose of the inspection and indicate that they will be using a CWL-3080 to document the status of rule compliance at the time of home visits.

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

On occasion, generally with new applicants, the circumstances do not exist for an assessment of compliance with a particular rule. For example, R400.9201(1)(b) asks you to assess the foster parent's willingness and ability to meet the requirements for children who are served by the agency. If there have been no placements, there is no basis in experience for an assessment of this rule. In cases such as this, the foster family's **intent to comply** is to be evaluated and marked on the form.

If a non-compliance with a rule does not exist, then the rule is to be considered in compliance. Do not write "N/A" with regard to any rule assessment. **All rules are applicable at all times.**

The applicant(s)/licensee(s) are to be provided with a copy of the completed CWL-3080.

Placement Specifications

RECOMMENDATIONS SERVICE TYPES

The ages, sex/gender and number of children for whom the foster family may provide care must be included with assessments in the "Licensing Recommendation" section. Indicate the reasons for any limitations on the license. For example, "due to the number of bedrooms and the fact that all of the biological children are girls, only female foster children may be placed at this time."

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

Service types may only be added to the licensing terms once the family has completed training on that service type or has demonstrated they have experience working with those service types. Most new foster homes will only have the service types of related, unrelated and general care. Any additional service types can be added to the home as they gain experience or complete training that is documented in CWLM.

R 400.12311 Foster parent/agency agreement (CPA Rule)

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

(2) The foster parent/agency agreement must contain all of the following provisions:

(a) The responsibilities of the agency.

(b) The services to be provided to foster children and the foster family.

(c) The responsibilities of the foster family.

(d) That the foster family has been informed of, and agrees to follow, agency policies and procedures.

(e) A description of the role of and the expectation to cooperate with *the* lawyer guardian ad litem and the state and tribal court, including the role of other appointed state and tribal attorneys.

(f) The agency schedule of foster care payments to foster parents.

(3) An agency shall document review of the foster parent/agency agreement with the foster family at least annually and, when needed, develop a new agreement.

(4) An agency shall give a foster family a copy of the signed current foster parent/agency agreement.

<u>Rule Interpretation:</u>

- Both the agency and the foster home applicant/licensee are to follow the written foster parent/agency agreement. Written placement agreements must contain all required content per CPA R400.12311.

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

placing agency, this must be specified in the agency's Parent-Agency Agreement.

- If a child is determined to be an Indian child as defined by Michigan law, the child's tribal government has the right to "intervene" which means the tribal government has the right to participate in the case in the same way the other lawyers participate. Each tribal government may intervene in a different way, but any lawyer representing the tribal government represents the tribal government, not the child who is a citizen or the parent who is a citizen.

If a tribal government intervenes and is represented by a lawyer, that lawyer is to be treated as all other lawyers in the case. This includes participating in all hearings, meetings and FTM's to which the other attorneys are invited. The attorney representing the tribal government should also receive all documents and communication sent to the other attorneys in the case. At times, the tribal government does not have a lawyer on staff to "intervene" so there may be a social worker from the tribe who attends and should be allowed to participate and receive all documents.

The state is required to make active efforts, so it is important to include the tribe's social worker in all meetings and to regularly consult with the social worker to determine if there are culturally consistent services to which the family may be referred. Foster parents caring for a child identified as an "Indian tribe" must cooperate with the social worker from the tribal government, encourage the child in culturally consistent activities and are encouraged to ask questions and learn about the child's tribal government and its customs.

R 400.12310 Initial evaluation (CPA Rule)

(1) An agency social service worker shall complete a written initial foster home evaluation, on a form provided by the department, before certifying the home for licensure.
(2) The report must include the dates and places of contacts and persons interviewed or observed.
(3) The agency shall assess all the following:
(a) The applicant or licensee's family and marital status and history, including current and past level of family functioning and relationships, and any incidents of domestic violence, elder abuse, or child abuse, as a perpetrator.
(b) The circumstances surrounding any criminal convictions or arrests for each member of the household, including minor children.
(c) Physical, mental, and emotional health of each member of the household, including any history of substance use disorder or treatment.
(d) Current mental health or substance use, or both.
(e) Parenting skills and strategies for building healthy relationships with children.
(f) Methods of discipline of children.
(g) Adjustment and special needs of the applicant's own children, including children not living in the home.
(h) Previous licenses or experience in providing child foster care, child day care, or adult foster care.
(i) Existence of a social support system including alternate care providers.
(j) Willingness to accept a child's spirituality, or religious beliefs or practices, even if they differ from the foster parent.
(k) Willingness to accept and support a child's SOGIE.

(l) Safety and maintenance of the applicant's house and property, including but not limited to, the following:

(i) Sufficient beds and sleeping space.

(ii) Pets.

(iii) Weapons.

(iv) Fire or water hazards.

(m) The age, number, gender, race, ethnic background, and characteristics of children preferred by the applicants, including those characteristics that an applicant or licensee would not accept.

(4) The agency will collect all the following:

(a) Three current references, related or non-related, from the applicant or licensee.

(b) A medical statement that includes all treatments, prescriptions, and medications for each adult member of the household that indicates that the member has no known condition which would affect the care of a foster child. The statement must be signed by a physician, physician's assistant, or nurse practitioner within the 12-month period preceding the date of the initial evaluation. Any subsequent household member added to the household must provide the medical statement within 90 days.

(c) Information regarding any past or current, or both, mental health or substance use disorder treatment by any member of the household.

(d) The inspection results in compliance with R 400.9305.

(5) An agency shall document placement specifications consistent with the information contained in the evaluation. The placement specifications must include the following:

-(a) The age, number, SOGIE, race, ethnic background, and characteristics of children preferred by the applicants.

(b) Characteristics of children best served by the family,

(c) Children who may not be placed in the home. The child's racial, ethnic, and cultural identity, heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interests of the child.

(6) An agency shall inform the applicant of the department's policies and procedures regarding concurrent planning.

(7) An agency shall provide the applicant with a copy of the final initial evaluation.

R 400.12324 Re-evaluation (CPA Rule)

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

(2) The annual reevaluation shall include a determination and assessment of all of the following:

(a) All changes to the factual information contained in the initial evaluation and subsequent renewal evaluations.

(b) Family functioning and interrelationships as determined by observation of, and interviews with, each member of the household and each social service worker who has had children placed in the

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

R 400.9207 Foster home reevaluations and special evaluations (FH Rule)
A foster parent shall do all of the following:

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

Reports

When all necessary information has been gathered and rule compliance assessed, a written Initial Evaluation (CWL- 3130) or Re-Evaluation (Annual or Renewal CWL-4004) report is to be completed. The report should be a compilation of all the information collected and the assessment of this information including a determination of rule compliance. The report must include a summary of the relationship of the assessed information to the family's ability to foster including the agency's final licensing recommendation. Per rule R 400.12325, the recommendations must be consistent with the facts contained in the report.

All Initial Evaluations must be submitted in the format provided by DCWL via the Child Welfare Licensing Module.

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

Reference the Child Welfare Licensing Module on the communications website for all Business Processes related to foster home licensing records and actions. **Documents (michigan.gov)**

Be sure to reference the DCWL Routing Matrix and DCWL Contacts which is located on the DCWL public website to ensure licensing actions are routed to the correct DCWL staff.

NOTE: A recommendation cannot be made to issue an original license with any outstanding rule violations. Corrective action must be completed prior to making the licensing recommendation to issue a new license. In cases where there is an existing rule non-compliance that cannot be corrected and there are no safety related concerns, for example, a loft bedroom that does not meet the requirements in R 400.9306 (1)(d), (e), a rule variance must be requested when making a licensing recommendation.

A renewal assessment that is due is to be completed concurrently while a special evaluation/complaint is in progress when there are foster children in the home and when there are not foster children in the home. This will not affect the outcome of the special evaluation/complaint but will allow the license to be renewed if there is general rule compliance so that foster care payments can continue while the special evaluation/complaint is being completed. If there are no foster children in the home, the renewal assessment is to continue. Renewals are to be submitted to DCWL no later than 15 days prior to the expiration of the license and no earlier than six weeks.

If there is an open special evaluation the renewal report must note there is an investigation and must include the Renewal/Special Evaluation document in the conclusion of the renewal report. The Michigan Administrative Procedures Act states that upon timely application, a license continues until the department makes a licensing decision.

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

Agencies may view a list of their currently enrolled and licensed homes on the Statewide Search for Licensed Child Welfare Agencies:

https://michildwelfarepubliclicensingsearch.michigan.gov/

Special Evaluations

R 400.12327 Special Evaluation (CPA Rule)

(1) Upon receipt of any information that relates to possible noncompliance with any foster home rule, the agency must do all the following:

(a) Submit a special investigation record to the department's licensing authority within 5 working days in the manner prescribed by the department.

(b) Initiate a special evaluation of the foster home as soon as is indicated, based on the information received, but not later than 7 calendar days after receipt of the information.

(c) Conduct an evaluation, in cooperation with child protective services, when applicable, including all necessary collateral contacts.

(d) Notify all social service workers who have children placed in the home that a special evaluation has been initiated.

(2) An agency shall inform foster parents of all the following before they are questioned or interviewed regarding a special evaluation:

(a) That a special evaluation has been initiated.

(b) A clear description of the allegations.

(c) That the foster parents may involve a person of their choice in any interviews with them involving the special evaluation if the involvement does not impede the timely completion of the evaluation.

(3) An agency shall conclude a special evaluation within 45 calendar days after receipt of the information. If additional time is required, then the agency shall inform the foster parent, in writing, of the basis for the extension and the expected length of the extension. The total time for the completion of the investigation may not exceed 90 calendar days without written approval from the chief administrator or his or her designee.

(4) Before completion of the written report required by subrule (6) of this rule, an agency

shall provide the foster parent with a verbal summary of the preliminary findings at the conclusion of the evaluation.

(5) Within 15 days of the conclusion of the evaluation, an agency shall complete a written report that includes all the following information:

(a) The date the information was received.

(b) The allegations.

(c) Dates and places of contacts, names of persons interviewed, and names of the interviewers. If children are interviewed, their last names may not be included in the report.

(d) Findings of fact based upon the evaluation.

(e) Conclusions regarding licensing rules compliance or noncompliance based on the findings of fact.

(f) Any change in the agency's decision regarding the number, SOGIE, age, race, religion, spirituality, ethnic background, and specific characteristics of children who may be placed that is based upon the documentation contained in the summary and conclusions of the report.

(g) Recommendations regarding licensing action and any required corrective action.

(6) An agency shall do all the following:

(a) Provide the foster parent with a copy of the report required by subrule (5) of this rule within 10 calendar days of its completion.

(b) Inform the foster parent, in writing, that the foster parent has a right to have his or her written response included as an attachment to the report required by subrule (5) of this rule.

(c) Provide a copy of the report to any social services worker that has children placed in the home.

(7) If any violations are cited and there is a signed corrective action plan, all social service workers who have children placed in the home must be notified there is a corrective action plan and what is required of the foster parent in that plan.

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

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

Per CCO Act 116, **722.118 (2), a licensee may not voluntarily close their license while** an active investigation against the licensee is pending or while revocation or refusal to renew is pending.

A renewal assessment that is due is to be completed concurrently while a special evaluation/complaint is in progress when there are foster children in the home and when there are not foster children in the home. This will not affect the outcome of the special evaluation/complaint but will allow the license to be

renewed if there is general rule compliance so that foster care payments can continue while the special evaluation/complaint is being completed. If there are no foster children in the home, the renewal assessment is to continue. Renewals are to be submitted to DCWL no later than 15 days prior to the expiration of the license and no earlier than six weeks.

If there is an open special evaluation the renewal report must note there is an investigation and must include the Renewal/Special Evaluation document in the conclusion of the renewal report. The Michigan Administrative Procedures Act states that upon timely application, a license continues until the department makes a licensing decision.

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

- "Use Reporter's Name" requires a Yes or No answer. If the source does not ask to be anonymous, do not offer it. Information is much more credible from an identified source. This information will not auto populate within the report and will only be use should the person need to be subpoenaed in the future or reinterviewed by the CPA during the evaluation.
- **Per CCO ACT 116, the reporting source must always be kept anonymous throughout the report and within the Nature of Intake/Reason for Contact.**
- "Nature of Intake/Reason for Contact" is a brief summary of the allegations without mentioning the reporting source. The last name of foster children is not to be included in this information. Briefly describe the alleged incident. Do not generalize so much, however, that the reader is unable to discern what allegedly happened.

R 400.12327 (1)(b)
Initiating a special evaluation of the foster home can include the following:

- Reviewing the file
- Case conferencing with the supervisor or other involved parties (CPS, law enforcement, other case workers etc.)
- Interviewing the licensees, foster children or other household members.

Investigation Process
When an agency becomes aware of information that indicates a possible statute/rule violation, the licensing department at the child placing agency is to make contact with the foster parent(s) to arrange interviews. Interviews with

involved parties may be completed at the foster home, in the community or at the agency, depending on the nature of the complaint and the person(s) being interviewed. When a visit to the foster home is warranted and the "scene" needs to be inspected in person by agency staff, an appointment should be made with the foster parents, when appropriate.

The time frame for going out to the foster home must, however, be based on the nature of the complaint. Giving a foster parent even a few hours of notice before going out to the home is less confrontational than an unannounced visit, **as long as no one is in danger and the notice will not compromise the scene or investigations by other parties, such as the police or CPS, by affording time for "clean up" or "coaching.**"

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

When making any kind of an unscheduled home visit, supervisors must pre-approve the visit, the time of a visit, the day a visit is to be made and the personnel to participate in the visit. When making unscheduled visits, staff are to carry appropriate agency identification.

R 400.12327(2)

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

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

including all biological and/or adopted children and all foster children.

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

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

R 400.12327 (3)
The investigation is to be completed within 45 calendar days of the date the agency learns of the information. The foster parent is to be notified, in writing, if the investigation will go past the 45-day limit. The notice should include an expected date of completion along with the cause of the delay. The completion of the investigation shall not exceed 90 days. If the investigation will not be completed in this time frame, written approval must be obtained from the chief administrator or licensee designee.

R 400.12327(4)
At the conclusion of the investigation, before the report is written, the agency is to verbally provide the foster parent with a summary of the findings, including any rule violations, whether a corrective action plan will be required, and the proposed recommendation.

R 400.12327(5)
Within 15 days of the conclusion of the evaluation, an agency shall complete a written report. A copy of the written special evaluation report must be sent to the licensee within 10 days of completion. The licensee is to be informed that they may submit a written response to the report and that any written response will be included in their foster home record at the agency.

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

occurred. When there is a need to indicate what CPS determined during an investigation, the report is to indicate that the DHHS services worker either agreed or disagreed with the findings of the agency.

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

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

The existence of rule violations always necessitates a signed Corrective Action Plan if the rule violations are correctible and the recommendation of the agency is to continue the license. Once a Corrective Action Plan has been agreed upon and signed by all licensees and the agency, the agency is to make a recommendation to DCWL regarding the status of the license. The recommendation may be to continue the regular license, or the agency may recommend placing the licensee(s) on a provisional license. The recommendation for a provisional license should be based on the violations being serious, but correctible, or repeated.

Corrective Action Plan

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

A CAP must be achievable within six months but can be of shorter duration. Be certain that the information in each section of the CAP is clear and specific regarding involved parties, time frames and actions to be taken, including the documentation required to demonstrate completion of a task. Any activities

required need to be measurable to determine if the licensee has complied.

SIGNATURES:
All Licensees (if multiple people are named on the license all must sign)
Certification Worker
Certification Supervisor
Anyone else who is to participate in any of the tasks outlined in the CAP.
Be certain to date the signatures. The corrective action plan is not effective until everyone has signed and dated the document.

When working with foster parent(s) in developing a CAP, be sure to make the tasks included in the CAP align with SMART goal format:

Specific
Measurable
Achievable
Realistic
Time Limited

Licensing Recommendation – Disciplinary Actions

R 400.12325 License recommendation (CPA Rule)

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

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

(3) Except for an original license, an agency shall recommend to the department the issuance of a regular license only when both of the following conditions exist:

(a) All non-compliances relating to the recommendation are correctable.

(b) A written corrective action plan has been developed. The plan comply with all of the following requirements:

(i) **Upon determining a rule noncompliance that is correctable by the foster parent, the agency must develop a written corrective action plan with the foster parent on the form prescribed by the department.**.

(ii)Be completed within 6 months of being signed.

(iii)Be signed and dated by the foster parent and the agency.

(4) Except for an original license, an agency shall recommend to the department the issuance of a provisional license only when all of the following conditions exist:

(a) **The foster parent has signed an acceptable corrective action plan**.

(b) The foster parent has been informed, in writing, of the facts and the basis for the provisional license.

(c) The foster parent has been notified of his or her right to appeal the provisional license.

(5) An agency shall recommend to the department the denial of license issuance, the revocation of a license, or the refusal to renew a license only when all the following conditions exist:

(a) The applicant or the foster parent falsifies the application or the applicant or the foster parent willfully and substantially violates the act or 1 or more of the licensing rules for foster homes

(b) The agency has provided the applicant or the foster parent with all of the following:

(i) A copy of the special evaluation report outlining the facts and the basis for the recommended action.

(ii) Written notice that the agency's recommendation for disciplinary action has been referred to the department for a final decision.

(iii) Written notice to the applicant or foster parent of their right to appeal the department's decision for licensing action.

(6) An agency shall provide the department with all documentation that details the basis for the agency's recommendation or any requested documentation for a department licensing action.

(7) An agency shall participate in, and present facts at, a foster home licensing administrative hearing to support an agency recommendation or a department licensing action.

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

Things to consider:

- Are they likely to comply with the conditions in the corrective action plan and maintain rule compliance (based on previous interactions/previous CAPS etc.)?
- Is this the first time there has been a problem/violation or is this the latest in a series of problems/violations?
- Was there a concurrent CPS investigation of the applicant/licensee? If there was and any member of the household placed on Central Registry as a perpetrator of abuse or neglect, there must be a recommendation for disciplinary action. MCL 722.119(3) prohibits the licensure of any home where a member of the household in listed on Central Registry.
    - Licensing rule compliance/non-compliance must be assessed for any confirmed cases as well as cases with no CPS findings.

All agency licensing disciplinary actions must be submitted to the DCWL Disciplinary Action Unit via CWLM. Please reference the Business Process on the CWLM communications webpage for details.

Recommending a Provisional License Associated with Rule Violations

A provisional license is valid for up to six months. When there are willfull and substantial rule violation(s) and the rule violations are correctible, then the agency may recommend a provisional license as part of a Corrective Action Plan. If there are questions about appropriate recommendations for a provisional license, please reach out to the manager of the DAU for assistance.

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

When a license is placed on a provisional status, the renewal date will shift based upon the new license type expiration date assigned (six months after the change to a provisional status takes effect). The new licensing date sequence will be different than the previous dates that were in effect prior to the provisional license.

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

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

- The licensee is willing to correct the violation, and has submitted an acceptable, written, signed plan to the certifying agency to correct the violation within the time period of the provisional license. (6 months)
- The nature and/or number of violations are such that with an approved

corrective action plan in place, the certifying agency can continue to assure that adequate care, safety, protection or supervision are being provided to the foster children.

- The agency believes the violations will be corrected within the 6-month period of the provisional license and that the violations will not reoccur.

A provisional license will not be issued prior to the date the agency and all persons named on the license have signed the corrective action plan. The signed CAP must be submitted to DCWL along with the CWL-4617 Acknowledgement of Appeal Rights form. The provisional license will be effective the date that the 4617 is signed by the foster parent. The CWL-4617 must be generated via CWLM. Please see the Business Process located on the CWLM communications webpage for more information.

Three Provisional Licenses Possible

MCL 722.117 Section 7 of Child Care Organizations Act 116 states that a provisional license **may not be issued more than 3 times,** which is interpreted to mean not more than three consecutive six month periods. As noted above, it is expected that corrective action will be completed during the period of the six month provisional license. All additional provisional licenses must be recommended in a consecutive fashion.

It is not appropriate to recommend a subsequent provisional license when the licensee has taken no steps to achieve rule compliance during the previous provisional license period. When no activity has occurred to correct the violations, disciplinary licensing action is appropriate. If your agency is unsure about this process, please reach out to your DCWL Central Office Licensing Consultant or the DAU Manager for assistance.

Recommending a Disciplinary Action

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

In order to support a disciplinary action, the agency must demonstrate rule non-compliance that reaches the threshold of both willful and substantial violation.

Willful Violation

A *willful violation* occurs when an applicant or licensee has received a copy of the

Act, the licensing rules promulgated under the Act, and the terms of a license and knew or had reason to know that his or her conduct was a violation of the Act, the licensing rules promulgated under the Act, or the terms of the license.

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

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

AND

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

Substantial Violation

A *substantial violation* is a violation to CCO Act 116, the licensing rules promulgated under CCO Act 116, or the terms of the license that jeopardizes the health, safety, care, treatment, maintenance, or supervision of children or adults receiving services or, in the case of an applicant, children or adults who may receive services.

To demonstrate a substantial rule violation the agency must document **ONE** of the following:

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

OR

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

OR

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

Recommendation Process

All disciplinary action recommendations must be submitted via CWLM. Please see the Business Process located on the CWLM communications webpage for more information.

Please ensure that all the following are included in the disciplinary report document hyperlink in CWLM:

1. A copy of the agency's letter to the licensee notifying the licensee of the proposed recommendation for disciplinary licensing action (see Disciplinary Licensing Action Cover Letter outline below).
2. The CWL-3889, if the recommendation is denial.
3. A copy of all written reports and all documentation related to the recommendation for disciplinary licensing action, including clearance documents and any attachments when those are the basis for the recommendation.
4. Any written response from the applicant/licensee. If such a response is not received until after the initial submission to DCWL, simply forward the written response when it is received. Do not wait to see if one will be submitted before sending the recommendation packet to DCWL.

DCWL Agrees With Agency's Disciplinary Recommendation

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

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

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

A compliance conference will be scheduled if an appeal of the NOI is received from the licensee. No compliance conference is offered for a denial of issuance.

A compliance conference affords a licensee the opportunity to show compliance with all lawful requirements for retention of the license. Representatives of the Disciplinary Action Unit will conduct the conference, with the foster parent(s) and agency representatives in attendance. If compliance cannot be established, the conference may be used to attempt to settle the matter. In the event a settlement cannot be reached, an administrative hearing will be scheduled.

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

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

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

The license technically remains active until the DCWL completes the disciplinary process. If a license is due to expire while the recommendation is pending with the DAU, a foster parent must be provided with a renewal application per rule 400.12306(4). If foster care placements remain placed in the home, a renewal evaluation must be completed so the license may be renewed for payment purposes only. If there are no foster children placed in the home, the agency is not required to complete an annual evaluation or renewal evaluation.

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

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

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

Borrowed Beds

R 400.9402 Child placement (FH Rule)
A foster parent shall receive a foster child for care only within the approved placement specifications and the terms of the foster home license. Placement of a foster child must only be received from the agency that certified the home or form another agency with prior approval of the agency that certified the home.

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

R 400.12326 Borrowed Home (CPA Rule)

(1) Before placing a child in a foster home certified by another agency, the borrowing agency shall have a record containing all the following:

(a) Approval from the certifying agency authorizing the placement of a child in the home.

(b) Verification that the foster parent is willing to accept the foster child.

(c) The initial evaluation and current reevaluation.

(d) A copy of all special evaluations completed during the last 2 years.

(e) Verification of all children currently placed in the home.

(f) Documentation that the foster parent has received orientation to the policies of the borrowing agency.

(g) A copy of the foster parent /agency agreement signed by the foster parent and the borrowing agency.

(h) The requirements in subdivisions (a) to (g) of this subrule do not apply to foster homes licensed by a tribe. A completed "Verification of Tribal Foster Home Safety Requirements" form is required when borrowing a foster home licensed by a tribe.

(2) Only in an after-hours emergency placement will a verbal agreement be acceptable. During an after-hours emergency placement, the certifying agency must provide a verbal summary of the information in subrule (1)(a) to (h) of this rule to the borrowing agency. Written borrowed home protocol must be completed and documented within 3 calendar days of an after-hours emergency placement.

(3) The borrowing agency is responsible for requesting the items identified in subrule (1)(c), (d), and (e) of this rule annually for the duration of the child's placement. The certifying agency must provide the items in subrule (1)(c), (d), and (e) of this rule annually for the duration of the child's placement.

(4) The certifying agency is responsible for certification functions, including special evaluations, and must share all information regarding changes in the home with all agencies that have children in placement in the home.

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

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

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

(1)(c) requires written endorsement of the study from the borrowing agency. There must be either a signature or some other indication the borrowing agency accepts the study as written and the endorsement is to be dated. If the borrowing agency does not find the study acceptable, the borrowing agency is responsible for adding an addendum to the study to correct or add any needed information.

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

All borrowed bed agreements must be completed in CWLM. Please see the Business Process on the CWLM Communications website for detailed information.

The current certifying agency will provide the requested information via CWLM along with a courtesy assignment to the requesting CPA for access to the provider record. That assignment needs to be ended when the borrowed bed agreement is no longer needed. Any documents (agreements, checklists, etc.) will need to be uploaded into the provider record.

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

Transfer of a License/Enrollment

R 400.12319 Transfer of enrollment or license.

(1) Prior to requesting the transfer of an enrollment or license, the receiving agency must provide the applicant/licensee with the following:

(a) Orientation of the receiving agency.
(b) Application.

(2) The current certifying agency must provide the receiving agency with the following:
(a) The most recent application for a license.
(b) The initial evaluation and current reevaluation and any other relevant licensing home study reports.
(c) The most recent copy of the licensing transaction record.
(d) All completed special evaluation reports and any associated corrective action plans.
(e) All record clearance documents for all members of the household, including any administrative review team assessments.
(f) Other information that might assist the agency considering the transfer with making an informed decision.

(3) The agency considering the transfer must review all information in subrule (2) of this rule. Prior to acceptance of the transfer, the receiving agency must make at least 1 home visit.

(4) If the agency considering the transfer declines to accept a transfer of the license or enrollment, the agency must inform the applicant or licensee in writing and provide a copy to the certifying agency.

(5) Written approval must come from the receiving agency's chief administrator or his or her designee prior to the transfer of the license during a special evaluation. When a license is transferred during a special evaluation, the receiving agency must complete the special evaluation.

(6) Written approval must come from the receiving agency's chief administrator or his or her designee prior to the transfer of the license during a provisional status.

(7) If there is an existing corrective action plan, the receiving agency is responsible for ensuring compliance.

(8) Transfer of a license during a pending disciplinary action must be approved by the department prior to the transfer.

(9) The receiving child placing agency must submit transfer documents to the department within 7 calendar days after the decision has been made to accept the transfer.

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

<u>Basic principles:</u>

- It's voluntary.
- The foster parent and the receiving agency must both agree to the transfer.
    - If the agency considering the transfer declines to accept a transfer of the license or enrollment, the agency must inform the applicant or licensee in writing and provide a copy to the certifying agency.
    - If the license is currently on a provisional status or involved in a pending special evaluation the transfer must be approved by the receiving agency's chief administrator.

  - If there is a pending disciplinary action on the license, then DCWL must also agree to the transfer.
- There is no right to appeal if an agency does not accept a transfer of a license.

Other issues:

- If a license is transferred during an investigation, the accepting agency is responsible for completing the investigation.
- If a license is transferred while on provisional status due to rule violations, the accepting agency is responsible for assuring that the foster parent complies with any required corrective action plans.
- Transferring a foster home license from one agency to another does not automatically transfer the case of a foster child that is in the home.
- A new application must be completed (CWL-3889) for the new agency prior to a transfer taking place.
- The effective date and expiration date of the license does not change when the license transfers to a new agency.
- The agency that currently certifies the license is to send copies (or share them via CWLM) of all documents outlined in the rule in the file to the agency considering the transfer.

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

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

An enrollment never closes unless the enrolling agency takes a specific action to close the enrollment. If an enrollment is closed and an agency wishes to reopen the enrollment, a new CWL-3889 must be submitted along with new CWL-1326AHs for each adult household member. The enrolling agency must submit the enrollment re-open request to their assigned DCWL support staff. A re-enrollment is when a family closes during the enrollment process and decides to engage in the licensing process again within one year of closure.

A reopen of a foster home license may only be completed if the foster home license has been closed within the last 12 months **AND THE PREVIOUS LICENSE DID NOT RESULT IN A**

DISCIPLINARY ACTION. The agency is to submit a new CWL-3889, complete updated fingerprinting for applicants, and complete CWL-1326AHs for each adult household member along with a narrative assessing any changes since the time of closure. Reopens do not need to be reenrolled. DCWL will need to complete updated central records clearances and run new secure criminal history for each applicant.

The re-open request must include an indicator regarding the reopen type:

- Reopen **with Changes** – must be reviewed by a Central Office Licensing Consultant
- Reopen **No Changes** – processed by DCWL support staff

Changes that require further assessment and review by a Central Office Licensing Consultant:

- Change of Address
    - Change of household composition
    - Divorce
    - Married/Remarried
    - Add/Remove Household Members
    - License Type Change to Group Home

If the agency completing the reopen is not the original certifying agency, then the narrative for the re-open must include an assessment by the new child placing agency regarding the review of the foster home file history.
Specific additional training requirements are at the discretion of the agency. This should be carefully evaluated in the context of why the license closed, previous license history, and the family's desired service types. A license that has been closed less than a year will be re-opened with a two-year regular license status or a three year extended status, unless there is a license type change to a group home where a new original license status (six months) would be assigned. If the home was closed during an initial original license period, the home will be reopened with an initial original license status again and will expire in 6 months. If DCWL previously conducted an ART review on a family member for the current license, a copy of the ART approval letter should be attached to the reopen assessment and an updated ART request must be submitted.

Any recommendation for licensure when the applicant has had a previous licensing disciplinary action must be reviewed by the division director of DCWL before the license may be reopened. If the license has been closed 12 months or more, the agency is to treat the application as a new application and obtain all documents required for an initial assessment.

Issuance of a Foster Family Group Home License

Procedures
The change from a foster family home to a foster family group home (or vice-versa) requires a new Children's Family Home License Application CWL-3889 application and a narrative outlining why the agency is recommending the family to obtain a group home license, as it is a new license. The new group home license will be valid for six months until the first renewal is processed.

All recommendations for modification from a foster family home license to a foster family home group license will be reviewed by a Central Office Licensing Consultant prior to the issuance of the group home license.

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

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

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

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

Variances

Several terms are commonly used when referring to the variance process including "exemption", "exception", and "variance". These words mean similar things however, the term for DCWL use is "variance".

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

in question.

Variance to a Licensing Rule

R 400.12102 (CPA Rule)
(1) Upon the written request of an applicant or agency, the department may grant a variance from an administrative rule if the alternative proposed ensures that the health, care, safety, protection, supervision, and needed services of children are maintained, and that the alternative aligns with the intent of the administrative rule.
(2) The department shall enter its decision, including the qualifications under which the variance is granted, in the records of the department and a signed copy must be sent to the applicant or agency. The variance may be time-limited or may remain in effect for as long as the agency continues to comply with the intent of the rule.

R 400.9102 (FH Rule)
(1) The department may grant a variance from an administrative rule if all ~~of~~ the following provisions are satisfied:
(a) The agency and the foster parent have reviewed and agreed with the request.
(b) The agency requests the variance, in writing, from the department.
(c) The proposed variance from the rule ensures that the health, care, safety, protection, and supervision of a foster child are maintained.
(2) The decision of the department, including the conditions for which the variance is granted, must be entered upon the records of the department and a signed copy sent to the agency and the foster parent. The variance may be time-limited or may remain in effect as long as the foster parent continues to ensure that the health, care, safety, protection, and supervision of foster children are maintained.

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

Procedure for Requesting Rule Variances:
A written request for a variance to a foster family/group home licensing rule is to be prepared and submitted via CWLM. A request for a variance will not be considered without a written request.

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

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

- Name, address, license number of the foster home or enrollment.
- Identification of the foster home rule or rules for which the variance is needed.
- A description of the circumstances necessitating the variance to the rule(s).
- A description of the alternative to the requirements of the rule(s). The alternative must assure that the health, care, safety, protection, and supervision of all current and proposed members of the household will be met, including birth, adopted, relative, and foster children.
- A brief description of all household members and children in the home, including the family's biological and adopted children and children through guardianship in addition to any foster children already placed in the home or waiting to be placed in the home. The description is to include the child/household member's first name, date of birth, date of placement (if applicable), and special needs and behaviors and permanency plan.
- Proposed sleeping arrangements for all the members of the household, including foster children, including prospective foster children, including bedroom size/description and types of beds. This is only required for variances that pertain to bedroom or capacity rules.
- The length of time for which the variance is needed.

DCWL will complete final approval or denial of the variance request via CWLM. A copy of the approval/denial (copy of the variance request, stipulations, Director signature) will be sent to the foster parent(s) and uploaded into CWLM.

Variance to the Law

A variance to the law cannot be granted unless the law contains a specific provision for a variance or exemption.

There are currently four specific exemptions or variances allowed to Child Care Organizations Act 116:

1. Placing an adult in a children's foster home.
2. Placing a youth 16 or 17 years old in an adult foster care facility.
3. Placing a youth less than 16 years old in an adult foster care facility.
4. Placing more than 4 children in a foster family home or more than 6 children in a foster family group home.

1 Placing an adult in a children's foster home MCL 722.115 (7)
The director of the department, or his or her designee, may authorize, on an exception basis, a licensed child placing agency or an approved governmental unit to place an adult in a foster family home, if a licensed child placing agency or approved governmental unit certifies to the department all

of the following:

(a) The adult is a person with a developmental disability as defined by section 600 of the mental health code…or a person who is otherwise neurologically handicapped and the person is also physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.

(b) The placement is in the best interest of the adult and will not adversely affect the interest of the foster child or children residing in the foster family home.

(c) The identified needs of the adult can be met by the foster family home.

(d) The adult will be compatible with other residents of the foster family home.

(e) The child placing agency or approved governmental unit will periodically reevaluate the placement of an adult under this subsection to determine that the criteria for placement …continue to be met and document that the adult is receiving care consistent with the administrative rules for a child placing agency.

NOTE: The statute only allows the department to authorize the placement of an adult into a foster family home. There is no statutory authority to authorize placement of an adult into a foster family group home.

Procedure:
A request for authorization to place an adult in a foster family home must be submitted in writing The Division of Child Welfare Licensing. Please contact DCWL to obtain the correct variance template for submission.

The request must be signed by a supervisor from the child placing agency or approved governmental unit. If the foster family home is certified by one agency and another child placing agency makes the request for placement of the adult, supervisors from both agencies must sign the request.

The written request will be reviewed. A letter either recommending approval or denial of the request will be prepared and submitted to the Director of the Division of Child Welfare Licensing. The director makes the final decision. Placement of the adult is not to be made without written approval of the variance request from the Director of DCWL.

2 Placing a youth 16 or 17 years old in adult foster care MCL 722.115 (6)
The Department may authorize a licensed child placing agency or an approved governmental unit to place a child who is 16 or 17 years old in an adult foster care family home or and adult foster care small group home licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, as amended, being sections 400.701 to 400.737 of the Michigan Compiled Laws, if a licensed child placing agency or approved governmental unit retains supervisory responsibility for the child and certifies

to the department all of the following:

(a) The placement is in the best interests of the child.

(b) The needs of the child can be adequately met by the adult foster care family home or small group home.

(c) The child will be compatible with other residents of the adult foster care family home or small group home.

(d) That the child placing agency or approved governmental unit will periodically reevaluate the placement of an individual under this subsection to determine that the criteria for placement in subdivision (a) through (c) continue to be met.

Procedure:
A request for authorization to place a 16 or 17 year old in adult foster care facility must be submitted in writing to the Division of Child Welfare Licensing. Please contact DCWL to obtain the correct variance template for submission. The request must be signed by a supervisor from the child placing agency or approved governmental unit.

As identified in Act 116, 722.115 sub rule (6) and (8)* CWL-Pub-14, Act No. 116 of the Public Acts of 1973, As Amended, Effective March 28, 2018 (michigan.gov), The department may authorize a child placing agency or governmental unit to place a child who is 16 or 17 years old in an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act. ***Typically, these are youth with long term mental health, intellectual development, and/or chronic health issues for which a long-term placement will be needed.***

The variance request template/word document provided by DCWL must be used for the request. Please be thoughtful and thorough when filling out. The request is sent to your Child Placing Agency assigned central office consultant who will guide the process from beginning to end.

Foster Care Case Manager/Supervisor for youth identifies Adult Foster Care (AFC) Home which can meet the unique needs of the youth and is willing to accept youth for placement. Please see www.Michigan.gov/bchs to assist in locating an AFC. The child placing agency must submit variance request in word format using DCWL template Variance Request to Act 116, MCL 722.115 (6). Please contact DCWL to obtain a copy of the variance template.

The child placing agency completes the variance template with input from identified AFC Facility by filling out all sections through signature area. **Please DO NOT contact LARA AFC consultant directly for approval or signature.** The completed variance request template must be submitted to identified DCWL Central Office Consultant or DCWL Manager. Please see DCWL_Staff_Coverage_664478_7.pdf (michigan.gov)

Once received, the DCWL Central Office Consultant sends variance request to the LARA Central Office Consultant who tracks the requests and forwards them to the assigned AFC Field Consultant for review. The LARA AFC Consultant contacts AFC facility for discussion and makes recommendation regarding variance request. Their final determination is included in the final section of *the variance request template* (Section titled "To be completed by LARA") and forwards the determination to the DCWL Central Office Consultant.

Once the DCWL Central Office Consultant receives LARA's final determination, they create a letter of approval/denial and forward to the DCWL director for signature. The final copy of the signed variance approval/denial is LARA, the requesting agency, and the AFC facility.

NOTE: The statute only allows the Division of Child Welfare Licensing to authorize placement of a child 16 or 17 years of age into a family or small or medium size adult foster care facility. There is no statutory authority to authorize placement of a 16 or 17 year old child into a large adult foster care facility.

3 Placing a youth less than 16 years old in an adult foster care facility MCL 722.115 (8)

The director of the department, or his or her designee, may authorize, on an exception basis, a licensed child placing agency or an approved governmental agency to place a child in an adult foster care family home or an adult foster care small group home…if the licensed child placing agency or approved governmental unit certifies to the department all of the following:

(a) The placement is in the best interest of the child.
(b) The placement has the concurrence of the parent or guardian of the child.
(c) The identified needs of the child can be met adequately by the adult foster care family home or small group home.
(d) The psychosocial and clinical needs of the child are compatible with those of the other residents of the adult foster care family home or small group home.
(e) The clinical treatment of the child's condition is similar to that of the other residents of the adult foster care family home or small group home.
(f) The child's cognitive level is consistent with the cognitive level of other residents of the adult foster care family home or small group home.
(g) The child is neurologically disabled and is also physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.
(h) The child placing agency or approved governmental unit will periodically reevaluate the placement of a child under this subsection to determine that the criteria for placement in subdivision (a) to (g) continue to be met.

Procedure:

The child placing agency completes the variance template with input from identified AFC Facility by filling out all sections through signature area. **Please DO NOT contact LARA AFC consultant directly for approval or signature.** The completed variance request template must be submitted to identified DCWL Central Office Consultant or DCWL Manager. Please see DCWL_Staff_Coverage_664478_7.pdf (michigan.gov) . Please contact DCWL to obtain the correct variance template for submission.

Once received, the DCWL Central Office Consultant sends variance request to the LARA Central Office Consultant who tracks the requests and forwards them to the assigned AFC Field Consultant for review. The LARA AFC Consultant contacts AFC facility for discussion and makes recommendation regarding variance request. Their final determination is included in the final section of *the variance request template* (Section titled "To be completed by LARA") and forwards the determination to the DCWL Central Office Consultant.

Once the DCWL Central Office Consultant receives LARA's final determination, they create a letter of approval/denial and forward to the DCWL director for signature. The final copy of the signed variance approval/denial is LARA, the requesting agency, and the AFC facility.

NOTE: The statute only allows the Division of Child Welfare Licensing to authorize placement of a child younger than 16 into a family or small size adult foster care facility. There is no statutory authority to authorize placement of a child younger than 16 into a large adult foster care facility. A child under 16 years must meet all the requirements of the Act, including (g) *The child is neurologically disabled and is also physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.*

4 Placing more than 4 children in a foster family home or more than 6 children in a foster family group home *MCL 722.118b*

(1) Upon the recommendation of a local foster care review board under section 7a of 1984 PA 442. MCL 722.137, or a child placing agency, the department may grant a variance to 1 or more licensing rules or statutes regulating foster family homes or foster family group homes to allow the child and 1 or more siblings to remain or be placed together. If the department determines that such a placement would be in the child's best interest and that the variance from particular licensing rules or statutes would not jeopardize the health or safety of a child residing in the foster family home or foster family group home, the department may grant the variance.

(2) The department's grant of a variance does not change a private home's licensure status.

Keeping siblings together or reuniting siblings is the only basis for the variance under this section of the Act. It does not include keeping a youth and their own child together.

MCL 722.111(f) (i) defines a foster family home as having a capacity of "1 but not more than 4 minor children" and MCL 722.111(f) (ii) defines a foster family group home as having a capacity of "more than 4 but fewer than 7 minor children". This part of the Act means that the placement of more than 4 minor children in a foster family home or 7 or more minor children in a foster family group home may be approved to keep siblings together or to reunite siblings. Such an approval for placement does not change the license type or the capacity of the foster home.

Under the conditions described, after DCWL approves a variance, an agency may place the children identified in the variance request into the family home without obtaining a foster family group home license, even though there will be more than 4 foster children in a foster family home. Generally, the granting of a variance for more than 4 children in a foster family home will be contingent upon the licensee applying for a group home license. Likewise, after DCWL approves a variance, an agency could place 7 or more foster children, as identified in the specific variance request, into a foster family group home.

The Act authorizes either a child placing agency or a Foster Care Review Board to recommend a variance. A child placing agency requesting a variance to the license capacity is to prepare the request for a variance to Rule 400.9402.

R 400.9402 Child placement (FH Rule)
A foster parent shall receive a foster child for care only within the approved placement specifications and the terms of the foster home license. Placement of a foster child must only be received from the agency that certified the home or from another agency with the prior approval of the agency that certified the home.

If the recommendation comes from a Foster Care Review Board (FCRB), the child placing agency that certifies the home will be contacted by DCWL and asked to either support the recommendation in writing or provide information that indicates why approval of the variance is inappropriate. A copy of the letter to the certifying agency will be forwarded to the requesting Foster Care Review Board with a letter indicating that a decision regarding the variance request will not be made until additional information is received from the certifying agency. All information received from the Foster Care Review Board and the certifying agency will be reviewed. A copy of the decision of the Director of DCWL regarding the granting or denying of the variance request will be sent to both the Foster Care Review Board and the certifying agency.

Variance Denied
There is no provision for appealing the denial of a variance request. The licensee may appeal a recommendation for adverse action that arises from the denial of the variance.

Foster Home Record

R 400.12328 Foster home record (CPA Rule)

(1) An agency shall maintain an electronic foster home record in the state's automated child welfare information system for each foster care home.
(2) The record must contain all the following information:
(a) All documents pertaining to certification of the home.
(b) Any special evaluation reports.
(c) Placement agreements between a foster parent and the agency.
(d) A placement list of all children placed in the foster home, including all the following information about each child:
(i) Name, age, sex, and race of the child.
(ii) Date of placement.
(iii) Date of, and reasons for, a child's removal from the foster home.
(e) Any written response from a foster parent, as provided by R 400.12327(6)(b).
(3) An agency shall make copies of a record available to the applicant or licensee upon request, except for the following items:
(a) Pending evaluation reports and documents.
(b) Records of privileged communication.
(c) Criminal records, police reports, child protective services information, and social security numbers from any source.
(4) An agency shall maintain records for not less than 7 years after closure.

The agency is to follow their written foster home record policy, which is required by Child Placing Agency Rule R 400.12303. The agency is to follow their written foster home records management policy, which is required by Child Placing Agency Rule R 400.12202. The minimum content of the policy is contained in Child Placing Agency Rule R 400.12213. Foster home records are to contain all of the following:

- All documents pertaining to certification of the home.
  - Proof of Orientation Attendance.
  - Proof of Willingness to Provide Care for Children Served by Agency.
  - Proof of Receipt of Agency Policies.
  - Foster Parent Training Plan and Foster Parent Training Record.
  - Foster Home License Applications, CWL-3889
  - Children's Foster Home Rules Compliance Record, CWL-3080.
  - Environmental Health Inspection Report – BCAL-1787A and BCAL-1788 – if applicable.
  - Medical Statements for each member of the household.

- Foster Home Reference documentation.
- Placement agreements between a foster parent and the agency.
- Initial and all annual re-evaluations.
- Special evaluation reports and Corrective Action Plans
- A placement list of all children placed in the foster home.
- Any written responses from a foster parent.
- Any variance documents.

Old Law Enforcement Information Network (LEIN) attachments to CWL-1326CW's are NOT to be maintained in the licensing file. If there are old LEIN documents in the file, they are to be immediately removed and destroyed by cross cut shredder. Currently, a copy of a printout from ICHAT is made available to the agency to verify a conviction for adult members of the household. Copies of MI State Police and Fingerprint results are made available via CWLM Secure Criminal History Record Information. These attachments must be stored in accordance with SRM200.

Files may be kept in either a paper format or in an electronic format. The child placing agency is responsible for ensuring records are secured and stored in a manner that ensures confidentiality and prevents unauthorized access and assures records are protected against damage and destruction,

Information on Foster Home Files

As indicated in R 400.12328(3), an agency is to make available to a licensee or applicant the information in their file if requested, except for the confidential information as indicated. If the licensee/applicant requests an actual copy of this information, the agency may charge a reasonable copying fee.

Additionally, if one child placing agency contacts another child placing agency to request file information to facilitate a transfer of license, or enrollment for a new license for a family that was previously licensed, or to review the file of a family previously certified by the agency, the agency receiving the request should copy the information and provide it to the requesting agency or allow access via CWLM once authorization has been established. If the family has made application with the new agency, the application includes a release of information, and no additional releases are necessary. Do not forward originals.

Anyone requesting file information, other than another child placing agency that has received a signed application, individual is to be referred to the Freedom of Information Act (FOIA). They will need to submit a written request to Lansing for the information. Requests may be submitted to the following email box: MDHHS_FOIA_Lit@michigan.gov . If a child placing agency receives a direct request for information under FOIA, the request is to be immediately scanned and sent to the email address noted above. When foster home file information is

requested via FOIA, the representative from the Legal Affairs/FOIA office will contact the associated certifying agency and request the information from the agency file to be sent to Lansing.

The agency needs to respond to such a request immediately. FOIA statutes contain very clear time frames for response. The FOIA request has a 5-day time restriction that could result in a fine if not met. No information is to be redacted from the certification file prior to forwarding the file to Lansing. FOIA information is to be sent to:

MDHHS, Legal Affairs FOIA, Suite 207
PO Box 30037
Lansing, MI 48909

Types of Care

Child Care Organizations Act 116 defines four types of family home care:

- Foster family home
- Foster family group home
- Family childcare home
- Group childcare home

MCL 722.111(1)(f) states:

"Private home means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group day care home, or a family day care home, as follows:

(i) Foster family home is a private home in which 1 but not more than 4 minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code, chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws, are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian or legal custodian.

(ii) Foster family group home means a private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to chapter X of Act No. 288 of the Public Acts of 1939 are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian or legal custodian."

Placement Overview

R 400.12404(1) (CPA Rule)
(1) An agency shall only place a child with an adult who is a relative of the child, a legal custodian, or in a licensed foster home, except as permitted in R 400.12503(2)(b) and R 400.12709.

Child placing agencies are prohibited from placing children in unlicensed homes for any reason for any period of time except as noted in the Adoption Placement Selection Rule or in accordance with Relative Placement Policy.

On October 7, 2022, Governor Whitmer signed into law HB 5974, HB 6073, HB 6074, and HB 6075 which included an update to the definitions of "relative" and "related" in the Juvenile Code, Child Care Licensing Act, Adoption code, and the Guardianship Assistance Act. Fictive kin relationships are now included in the updated definitions. As a result, staff can now assess adults who have a strong positive emotional tie or role in a child's life, or the parent's life if the child is an infant, as a relative for placement.
The definition of a relative found throughout our policy manuals will be amended to also include the following:
A relative is also defined as an individual who is at least 18 years of age and not related to a child within the fifth degree by blood, marriage, or adoption but who has a strong positive emotional tie or role in the child's life or the child's parent's life if the child is an infant, as determined by the department or, if the child is an Indian child, as determined solely by the Indian child's tribe. As used in this section, "Indian child" and "Indian child's tribe" mean those terms as defined in section 3 of chapter XIIB; see NAA 215, PLACEMENT/REPLACEMENT PRIORITIES FOR INDIAN CHILD(REN) (michigan.gov).

Note: Placements made with an unrelated licensed foster parent cannot be changed to a relative placement while the child is in their home as this would not fall within the intent of the updated definition.

Please see CI 22-134 for more information.

Concurrent Licenses

R 400.9206(b)(v)(ii) (FH Rule)
A foster home applicant must do all the following:
(b) Provide accurate and truthful information on an ongoing basis regarding the following:
(v)(ii) Previous licenses or experience in providing child foster care, child day care, or adult foster care.

R 400.9503 (FH Rule)
(1) A foster parent shall notify the agency within 5 calendar days after filing an application for an adult foster care family home license, a family child care home certificate of registration, or a group child care home license.
(2) If the foster home is licensed concurrently as an adult foster care family home or a child care group home or registered as a family child care home, the foster parent must notify the agency if there is a change in the terms of the adult foster care or child care license or registration.

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

Concurrent licenses are issued only if a person is in compliance with the administrative rules relating to each type of license and if operation under one license does not jeopardize operation under the other.

While each license is handled and evaluated independently of the other, it is essential that records be shared. Licensing workers/consultants should keep each other informed about any unusual events in the home.

A violation of rules relating to one license does not necessarily jeopardize the other license; however, when the rule(s) are similar or identical for both types of licenses, the violation(s) may place both licenses in jeopardy.

Concurrent AFC and Child Foster Home Licenses

MCL 722.111
(1) Minor child means any of the following:
(i) A person less than 18 years of age.
(iii) A person who is a resident in … a foster family home or foster family group home; who becomes 18 years of age while residing in the … home; and who continues residing in the … home to receive care, maintenance, training, and supervision. This subparagraph applies only if the number of those residents who become 18 years of age do not exceed the following:
(a) Two, if the total number of residents is 10 or fewer.

MCL 722.111a(1)
A private residence licensed as a foster family home or foster family group home may be concurrently licensed as an adult foster care family home. Additional children not related to a resident of the foster family home or foster family group home shall not be received in the foster family home or foster family group home after the filing of an application for an adult foster care family home license.

When a foster family is caring for youth who become 18 years old and continue to live in the home to receive care and supervision, the youth can continue to be counted as a foster child for purposes of licensing, as long as the number of such youth does not exceed two. When a third youth is going to become 18 and the family wishes to continue to provide care, the family needs to apply for and obtain an AFC family home license. If a youth turns 18 while in care and is no longer a court ward or not in need or care and supervision due to physical or emotional problems, the youth's presence in the home must be assessed as a "member of the household".

Please be mindful of R 400.9401 regarding capacity and sleeping arrangements.

Once an application for an AFC license is filed, the family may no longer receive additional children for placement if the child being placed is not related to a resident of the foster family home. Additional child placements could be made, if the placement is within the licensed capacity of the home and the child is related to someone in the home, either a household member or another child or adult already placed into the home.

The foster home that is concurrently licensed for the care of adults and children may continue to renew both licenses as long as the requirements for both licenses continue to be met.

A home that is originally licensed for AFC may not subsequently apply to be concurrently licensed for Children's Foster Care.

Concurrent Child Care and Child Foster Care Licenses
When a home is licensed as a family day care home and is seeking a foster family home license, it is required that the CDC licensing consultant responsible for the family day care license be contacted. The purpose is to obtain and share information concerning the family**.**

The foster home rule was amended in January 2015 to allow for an individual to be concurrently licensed as both a foster home and a child care home with a maximum capacity of 12 children, including birth, adopted, relative, and guardian children and counting the capacity of both licenses. The child care rule was not

amended and remains at 8 total children. If there will be more than 8 children total, a variance must be obtained from the Child Care Licensing Division at LARA. Consultation with the childcare licensing consultant should occur to obtain this variance.

Procedures for Ordering Forms and Publications

Please complete the Request for Child Welfare Forms from the DCWL public website: DCWL Training (michigan.gov). Agencies may request the available forms and publications by emailing the completed from request to: FedewaA@michigan.gov: