

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

400.710 Rules; variance, modification, or change; purposes; restriction; review; rules subject to MCL 554.917.

Sec. 10.

(1) The department shall promulgate rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in the areas provided under subsection (4).

(2) The bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, shall promulgate rules providing for adequate fire prevention and safety in an adult foster care facility licensed or proposed to be licensed for more than 6 adults. The rules shall be promulgated in cooperation with the department and the state fire safety board and shall provide for the protection of the health, safety, and welfare of the adults residing in a facility. The bureau of fire services shall promulgate the rules according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A person may request a variance from the application of a rule promulgated under this subsection by application to the state fire marshal. The state fire marshal may make a variance upon a finding that the variance does not result in a hazard to life or property. The finding shall be transmitted to the person requesting the variance and shall be entered into the records of the bureau of fire services. If the variance requested concerns a building, the finding shall also be transmitted to the governing body of the city, village, or township in which the building is located. The entire state fire safety board shall act as a hearing body in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to review and render decisions on a ruling of the state fire marshal interpreting or applying these rules. After a hearing, the state fire safety board may modify the ruling of the state fire marshal if the enforcement of the ruling would do manifest injustice and would be contrary to the spirit and purpose of the rules or the public interest. A decision of the state fire safety board to modify or change a ruling of the state fire marshal shall specify in what manner the modification or change is made, the conditions upon which it is made, and the reasons for the modification or change.

(3) The department shall promulgate rules for the certification of specialized programs offered in an adult foster care facility to a mentally ill or developmentally disabled resident. The rules shall include provision for an appeal of a denial or limitation of the terms of certification to the department under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

(4) The rules promulgated by the department under this act shall be restricted to the following:

(a) The operation and conduct of adult foster care facilities.

(b) The character, suitability, training, and qualifications of applicants and other persons directly responsible for the care and welfare of adults served.

(c) The general financial ability and competence of applicants to provide necessary care for adults and to maintain prescribed standards.

(d) The number of individuals or staff required to ensure adequate supervision and care of the adults served.

(e) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate health standards to provide for the physical comfort, care, protection, and well-being of the adults received and maintenance of adequate fire protection for adult foster care facilities licensed to receive 6 or fewer adults. Rules promulgated in the areas provided by this subdivision shall be promulgated in cooperation with the state fire safety board.

(f) Provisions for food, clothing, educational opportunities, equipment, and individual supplies to ensure the healthy physical, emotional, and mental development of adults served.

(g) The type of programs and services necessary to provide appropriate care to each resident admitted.

(h) Provisions to safeguard the rights of adults served, including cooperation with rights protection systems established by law.

(i) Provisions to prescribe the rights of licensees.

(j) Maintenance of records pertaining to admission, progress, health, and discharge of adults. The rules promulgated under this subdivision shall include a method by which a licensee promptly shall notify the appropriate placement agency or responsible agent of any indication that a resident's assessment plan is not appropriate for that resident.

(k) Filing of reports with the department.

(l) Transportation safety.

(5) The rules promulgated under subsection (1) shall be reviewed by the council not less than once every 5 years.

(6) Rules promulgated under subsection (1) are subject to section 17 of the continuing care community disclosure act, 2014 PA 448, MCL 554.917.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 1986, Act 257, Eff. Mar. 31, 1987 ;-- Am. 2006, Act 201, Imd. Eff. June 19, 2006 ;-- Am. 2014, Act 450, Imd. Eff. Jan. 2, 2015 ;-- Am. 2016, Act 525, Eff. Apr. 9, 2017

Compiler's Notes: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227. For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

Admin Rule: R 400.1401 et seq.; R 400.1601 et seq.; R 400.2101 et seq.; R 400.11101 et seq.; and R 400.16001 of the Michigan Administrative Code.