



Michigan Department of Human Services

ADULT FOSTER CARE LICENSING

Department of Human Services

FY 2014 EXECUTIVE BUDGET
Department of Human Services

Prepared by

The Bureau of Children and Adult Licensing

For Presentation to

**The Senate Families, Seniors
and Human Services Committee**

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BUREAU OF CHILDREN AND ADULT LICENSING

Mission

The Bureau of Children and Adult Licensing (BCAL) is the regulatory agency responsible for implementing and enforcing statutes, rules and policies for protecting vulnerable children and adults in licensed facilities, homes and agencies. BCAL regulates this industry by granting initial licenses, conducting renewal inspections and complaint investigations, establishing compliance with administrative rules, verifying corrective action plans and taking disciplinary action as needed to protect individuals served. This office regulates over 24,254 facilities with a licensed capacity of over 584,684 vulnerable adults and children.

Divisions

- **Adult Foster Care and Homes for the Aged**
 - 4,637 licensed facilities with a capacity of 49,063 individuals (ending FY 12)

- **Child Care**
 - 11,179 licensed facilities with a capacity of 348,918 (ending FY 12)

- **Child Welfare**
 - 8,438 licensed facilities (includes 7,035 licensed foster homes) with a capacity of 186,703 individuals (ending FY 12)

EXECUTIVE SUMMARY

- Human Services Regulation in Michigan
- Licenses both public and private operations that involve a public interest
- Licensing acts give the department three critical functions:
 1. Rule making authority
 2. Rule enforcement authority
 3. Rule deciding and interpretation authority

- Purpose of human care regulation is to safeguard and protect
- Licensing is consumer protection through risk reduction
 - Risk to vulnerable minimized through compliance with established safety standards
 - Compliance demonstrated through observation, interview, and review of documentation

- Inspection focuses on four general areas:
 1. Competency and availability of staff
 2. Number and deployment of staff
 3. Adequacy and appropriateness of activities
 4. Health, safety and appropriateness of building and grounds

ADULT FOSTER CARE AND HOMES FOR THE AGED LICENSING DIVISION

PROGRAM STATEMENT The Adult Foster Care and Home for the Aged Licensing Division is responsible for implementing and enforcing statutes, administrative rules and policies for the protection for vulnerable adults residing in family, small, large and congregate adult foster care homes, homes for the aged, and specialized programs for developmentally disabled and/or mentally ill individuals who reside in adult foster care homes. This division regulates over 4,600 facilities with a licensed capacity of over 49,000.

ADULT FOSTER CARE (AFC) homes are residential settings that provide 24-hour personal care, protection, and supervision for individuals who are developmentally disabled, mentally ill, physically handicapped or aged who cannot live alone but who do not need continuous nursing care.

HOMES FOR THE AGED (HFA) provide room, board, and supervised personal care to either:

- 21 or more unrelated, nontransient individuals 60 years of age or older.
- 20 or fewer individuals 60 years of age or older and is operated in conjunction with and as a distinct part of a licensed nursing home.

BOTH AFC HOMES AND HFA'S PROVIDE CARE TO PERSONS WHO ARE OR HAVE Aged, mentally ill, physically disabled, Alzheimer's disease or other dementia-related disorders. Care may include assistance with bathing, grooming, dressing, eating, walking, toileting, the administration of medication, protection and supervision.

STATISTICS

Adult Foster Care & Homes for the Aged (AFC/HFA) Licensing in FY 2012

| <u>Facility Type (capacity)</u> | <u>No. of Facilities</u> | <u>Total Capacity</u> |
|---|--------------------------|-----------------------|
| ▪ AFC Family Home (1-6) | 1,064 | 5,093 |
| ▪ AFC Congregate (over 20) | 10 | 353 |
| ▪ Homes for the Aged (Over 20) | 194 | 14,811 |
| ▪ County Infirmaries | 2 | 96 |
| ▪ AFC Large Group (13-20) | 518 | 9,710 |
| ▪ AFC Med Group (7-12) | 526 | 5,740 |
| ▪ AFC Small Group (1-6) | 2,323 | 13,260 |
| ▪ Total AFC & HFA Facilities | 4,637 | 49,063 |

▪ LEGAL BASE

- 1979 P.A. 218, as amended, the Adult Foster Care Facility Licensing Act and Administrative Rules
- 1939 P.A. 280, as amended, Social Welfare Act
- 1978 P.A. 368, as amended, Public Health Act
- 1974 P.A. 258, as amended, Mental Health Code

PAYMENT FOR RESIDENT CARE Payment for Adult Foster Care and Home for the Aged care may be paid for by residents' private funds, Social Security, Supplemental Security Income, Medicaid personal care, private insurance or community mental health contract funds.

REQUIRED INSPECTIONS Adult Foster Care and Homes for the Aged are required to have onsite Inspections completed prior to original license issuance. Adult foster care homes are required to have onsite inspections completed every two years prior to license renewal. Homes for the aged are required to have annual inspections. Interim inspections are required by policy for any adult foster care home on a provisional license and any home for the aged on a corrective notice order.

STANDARD OF PROMPTNESS Effective 10/01/2007, the department shall issue an initial or renewal license no later than 6 months after the applicant files a complete application. 1979 PA 218 has defined a complete application as "an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security or similar item required by law or rule from a local unit of government, a federal agency or a private entity."

COMPLAINT INVESTIGATION Any member of the public may request an investigation by making a complaint alleging that the statute or administrative rules may have been violated. Statute requires that to initiate a complaint investigation within 15 days, most are initiated within 5 days of receipt of the BCAL complaint. If the complaint is received in writing, BCAL must inform the complainant of its findings within 30 days after receipt of the complaint, or provide a status report.

Copies of investigation and/or inspection reports are available on the Department website or via a FOIA request.

ADMINISTRATIVE HEARING PROCESS The statute allows BCAL to deny, suspend, revoke, or refuse to renew a license, or modify a regular license to a provisional license, if the licensee falsifies information on the application for licensure or willfully and substantially violates the act, the rules promulgated under the act, or the terms of the license. The license shall not be denied, suspended or revoked, a renewal shall not be refused, and a regular license shall not be modified to a provisional license unless BCAL gives the licensee or applicant written notice of the grounds of the proposed denial, revocation, refusal to renew, or modification. If the licensee or applicant appeals the denial, revocation, refusal to renew, or modification by filing a written appeal within 30 days after receiving the written notice, the director or the director's designated representative shall conduct a hearing at which the licensee or applicant may present testimony and confront witnesses.

LICENSEE RESPONSIBILITY The continual provision of personal care, supervision, and protection in addition to room and board, as required by the statutes and administrative rules.

REPORTING REQUIREMENTS/SERIOUS INCIDENT/ACCIDENT/DEATH REPORTS

AFC Group Homes are required to make a reasonable attempt to contact the resident's designated representative and responsible agency by telephone, and follow the attempt with a written report to the resident's designated representative, responsible agency, and the adult foster care licensing division within 48 hours of when there has been a death of a resident, accident or illness that requires hospitalization, incident involving displays of serious hostility, attempts of self-inflicted harm or harm to others, instances of property destruction, arrest or conviction of a resident, and resident absence without notice.

REPORTING REQUIREMENTS/SERIOUS INCIDENT/ACCIDENT/DEATH REPORTS

(continued)

Homes for the aged are required to report intentional or unintentional events in which a resident suffers harm or is at risk of more than minimal harm; such as, but not limited to, abuse, neglect, exploitation, or unnatural death, to the department within 48 hours of the occurrence. The incident or accident shall be immediately reported verbally or in writing to the resident's authorized representative, if any, and the resident's physician. If an elopement occurs, then the home shall make a reasonable attempt to locate the resident and contact the resident's authorized representative, if any. If the resident is not located, the home shall contact the local police authority, and notify the department within 24 hours of the elopement.

AFC ADVISORY COUNCIL The adult foster care licensing advisory council of 11 members, appointed by the director, consists of at least one member from appropriate state and local agencies, private or public organizations, adult foster care providers, and residents of adult foster care facilities or their representatives, and serves for three terms. The council advises the department on the content and enforcement of rules. Meetings are open to the public. Minutes and meeting dates are posted on our public website.

CRIMINAL BACKGROUND CHECKS Michigan statute requires criminal background checks including fingerprinting of all adult foster care and home for the aged direct access staff. The AFC/HFA Licensing Division processes criminal history reports to determine whether a direct access employee's criminal history disqualifies them from employment. Notification of determination is sent to the licensee, employee, and the licensing consultant for follow-up. Criminal background checks of licensees, licensee designees and adult household members are conducted by bureau staff per Michigan statute.

NEW INTERVIEW & OBSERVATION INSPECTION MODEL

- **Successor to Focused Onsite Renewal.**
- **Developed with the cooperation of providers, advocacy groups, trade associations and BCAL staff.**
- **Modeled after the Key Rules system developed in the state of Wisconsin.**

Major Concepts

- BCAL assumes 100% compliance with all licensing rules.
- Interview and Observation – focus on human interactions.
- Focus on certain rules, which BCAL believes are **key indicators** of quality of care and resident safety.
- Licensing Staff have the discretion to expand the scope of review at any time.

AFC Key Indicators

| Program Requirement | Begins at 400.1410 1 | Begins at 400.1410 1 | Begins at 400.1510 1 | Begins at 400.140 1 | | |
|--|-------------------------|-------------------------|-------------------------|------------------------|--------------------|--|
| | 204(2) | 204(2) | 204(2) | 1404(3) | 1806(3) | Direct care staff qualifications |
| | 204(3) | 204(3) | 204(3) | | | Staff competence |
| | 206(2) | 206(2) | 206(2) | 1406(1) | 1806(1) | Sufficient staff on duty |
| Resident Care Services & Record | | | | | | |
| | 301(2) | 301(2) | 301(2) | 1407(2) | | Written assessment prior to admission |
| | 303(2) | 303(2) | 303(2) | 1407(5) | | Supervision, protection & personal care per resident's assessment plan |
| | 304(2) | 304(2) | 304(2) | 1409(2) | | Respect & safeguard resident's rights |
| | 305(3) | 305(3) | 305(3) | 1407(5) | | Dignity, protection & safety |
| | 306(1) | 306(1) | 306(1) | | | Assistive device only to enhance mobility, physical comfort & well-being |
| | 309(5) | 309(5) | 309(5) | | | Crisis intervention shall not be used as a routine intervention |
| | 310(1) | 310(1) | 310(1) | 1416(1) | | Follow physicians instructions |
| | 312(1) | 312(1) | 312(1) | 1418(1) | | Medication only given as prescribed |
| | 312(4) | 312(4) | 312(4) | 1418(4) | | Comply with medication provisions |
| | 313(1) | 313(1) | 313(1) | 1419(1) | | 3 regular nutritious meals daily |
| | 315(2) | 315(2) | 315(2) | 1421(2) | | Safe keeping of resident funds & valuables |
| | 315(3) | 315(3) | 315(3) | 1421(3) | | Funds & valuables transaction form |
| | 318(4) | 318(4) | 318(4) | | 1803(5) 1803(6) | Everyone is familiar with the emergency/evacuation plan |
| | 318(5) | 318(5) | 318(5) | | 1803(3) 1803(4) | Review - Practice emergency/evacuation plan |

AFC Key Indicators

| | AS (1-6) | AM (7-12) | AL (13-20) | AF (21-6) | Special Cert. | DESCRIPTION |
|---------------------------------|-------------|--------------|---------------|--------------|------------------|--|
| Environmental Conditions | | | | | | |
| | 401(2) | 401(2)* | 401(2)* | 1424(1) | | Provide hot/cold water under pressure. 105-120 °F for AS |
| | 401(6) | 401(6)* | 401(6)* | 1424(5) | | Poisons & other dangerous material stored in non-resident and non-food preparation areas |
| | 402(1) | 402(1)* | 402(1)* | 1425(1) | | All food from approved food sources and free from spoilage |
| | 402(2) | 402(2)* | 402(2)* | 1425(2) | | Food protected from contamination |
| | 402(3) | 402(3)* | 402(3)* | 1425(3) | | Appropriate food storage temperatures |
| | 402(4) | 402(4)* | 402(4)* | 1425(4) | | Food service equipment material is clean and in good repair |
| | 402(5) | 402(5)* | 402(5)* | | | Home equipped to prepare/serve adequate meals |
| | 402(6) | 402(6)* | 402(6)* | 1426(12) | | Appliances shall be clean and in good repair |
| | 403(1) | 403(1) | 403(1) | 1426(1) | | Home maintenance & safety |
| | 403(2) | 403(2) | 403(2) | 1426(1) | | Furnishing & housekeeping |
| | 403(12) | 403(12) | 403(12) | 1426(10) | | Sidewalks, fire escapes & entrances free of hazards |
| | 403(13) | 403(13) | 403(13) | 1426(11) | | Hazard-free yard |
| | 407(3) | 407(3) | 407(3) | 1430(2) | | Bathrooms doors, non-locking against egress |
| | 408(7) | 408(7) | 408(7) | 1431(5) | | One easily opened bedroom window |
| | 408(9) | 408(9) | 408(9) | 1431(7) | | Resident w/impaired mobility/street floor bedroom |

AFC Key Indicators

| | AS (1) (6) | AMI (7-12) | AS (13-20) | AF (4) (5) | Special Car. | DESCRIPTION |
|-------------------------------|---------------|---------------|---------------|---------------|--------------------|--|
| FIRE SAFETY (201-1980) | | | | | | |
| | 505(1) | 505(1)** | 505(1)** | 1437 | 1803(1) 1803(2) | Smoke detector locations |
| | 505(3) | 505(3)** | 505(3)** | 1437(2) | | Smoke detector battery replacement |
| | 505(4) | 505(4)** | 505(4)** | 1437(3) | 1803(1) | Smoke detectors tested, examined |
| | 506 | 506** | 506** | | | 1 approved and maintained 2A 10BC extinguisher or equivalent per occupied floor & basement |
| | 507(6) | 507(6)** | 507(6)** | | | Occupied room door , non-locking against egress |
| | 509(1) | 509(1)** | 509(1)** | 1439(1) | | Ramps for wheelchairs |
| | 510(5) | 510(5)** | 510(5)** | 1440(5) | | No portable heaters |
| | 511(2) | 511(2)** | 511(2)** | 1440(6) | | Heating plants/flame producing equipment must be properly enclosed |
| | 511(4) | 511(4)** | 511(4)** | | | Combustibles not w/ heat or flame producing equipment |
| | | | | 1438(5) | 1803(5) 1803(6) | Everyone is familiar with the emergency/evacuation plan |
| | | | | 1438(4) | 1803(3) 1803(4) | Review/ practice emergency/ evacuation plan |

AFC Key Indicators

| | AS (1-6) | AM (7-12) | AL (13-20) | AF (21-30) | Special Cert. | DESCRIPTION |
|--------------------------------|-------------|--------------|---------------|---------------|--------------------|---|
| FIRE SAFETY Before 1980 | | | | | | |
| | 2243(1) | 2243(1)** | 2243(1)** | 2243(1) | | Safe means of egress |
| | 2243(4) | 2243(4)** | 2243(4)** | 2243(4) | | Occupied room & exterior door, non-locking against egress |
| | 2244(1) | 2244(1)** | 2244(1)** | 2244(1) | | Refer to rule – Heating |
| | 2244(4) | 2244(4)** | 2244(4)** | 2244(4) | | Combustibles not w/ heat or flame producing equipment |
| | 2245 | 2245** | 2245** | 2245 | | One 5 pound multi-purpose extinguisher per occupied floor |
| | | | | 2261(3) | 1803(5) 1803(6) | Everyone is familiar with the emergency/evacuation plan |
| | | | | 2261(2) | 1803(3) 1803(4) | Review/ practice emergency/ evacuation plan |
| PA 218 | 734b(2) | 734b(2) | 734b(2) | 734b(2) | 734b(2) | Criminal history background check process followed |

HFA Key Indicators

| Administrative Management | 1921(1) | Organized program |
|---------------------------|---------|----------------------------------|
| | 1922(1) | Resident service plan |
| Resident Care | 1931(2) | Dignity, protection, safety |
| | 1931(5) | Adequate staffing |
| | 1932(1) | Medications |
| | 1932(3) | Medication administration record |
| | 1932(5) | Locked medications |
| | 1933(1) | Personal care |
| Records | 1943(1) | Resident register |
| Food Service | 1952(1) | 3 Meals |
| | 1952(4) | Medical nutrition |

HFA Key Indicators

| | | |
|----------------------|------------|--|
| Building and Grounds | 1962(2) | Premises safe and sanitary |
| | 1964(1) | Free from hazards |
| | 1964(9)(a) | Ventilation |
| | 1970(7) | Water temperature |
| | 1976(5) | Kitchen and dietary |
| | 1976(6) | Kitchen |
| | 1976(7) | Food storage |
| | 1976(8) | Thermometer |
| | 1976(10) | Poison material |
| | 1979(1) | Clean, good repair |
| | 1979(3) | Hazardous & toxic material |
| Emergency Procedures | 1981 | Disaster plans |
| Criminal Checks | 20173a | Criminal history background check process followed |
| Rights | 20201 | Resident Rights |

CONTACTS

Public Complaint Intake Toll Free Number: **1-866-856-0126**
Public Application Information Toll Free Number: **1-866-685-0006**
Background Check Toll Free Number: **1-877-718-5542**

For information regarding licensing requirements, background checks, training, facility locator, resources, rules & statutes, forms or to contact us (BCAL field offices) go to www.michigan.gov/afchfa or send emails to AFCHFAPublicFeedbak@michigan.gov

For background check information go to www.miltcpartnership.org and fill in a request form under **Support Services**.

NURSING HOMES

The Bureau of Health Care Services in the Department of Licensing and Regulatory Affairs regulates Nursing Homes.

Licensing Verification Division: **1-517-334-8408**
Complaint Hotline: **1-800-882-6006**