

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

400.724 Request for investigation; providing substance of complaint; disclosures; determining violation; initiation of investigation; findings; written determination or status report; final report; additional copies of documents; reimbursement; informing licensee of findings; public inspection of written determination; administrative review; sharing of information or records.

Sec. 24.

(1) A person who believes that this act or a rule promulgated under this act may have been violated may request an investigation of an adult foster care facility. The request shall be submitted to the department in writing or the department shall assist the person in reducing an oral complaint to writing within 7 days after the oral request is made.

(2) The substance of the complaint shall be provided to the licensee not earlier than at the commencement of the on-site inspection of the adult foster care facility that takes place according to the complaint.

(3) The complaint, a copy of the complaint, or a record published, released, or otherwise disclosed to the adult foster care facility shall not disclose the name of the complainant or an adult resident named in the complaint unless the complainant or an adult resident consents in writing to the disclosure or the investigation results in an administrative hearing or a judicial proceeding, or unless disclosure is considered essential to the investigation by the department. If disclosure is considered essential to the investigation, the complainant shall be given the opportunity to withdraw the complaint before disclosure.

(4) Upon receipt of a complaint, the department shall determine, based on the allegations presented, whether this act or a rule promulgated under this act has been, is, or is in danger of being violated. The department shall investigate the complaint according to the urgency determined by the department. The initiation of a complaint investigation shall commence within 15 days after receipt of the written complaint by the department.

(5) The department shall inform the complainant of its findings. Within 30 days after the receipt of complaint, the department shall provide the complainant a copy, if any, of the written determination or a status report indicating when these documents may be expected. The final report shall include a copy of the original complaint. The complainant may request additional copies of the documents listed in this subsection and shall reimburse the department for the copies according to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) The department shall inform the licensee of the department's findings at the same time that the department informs the complainant under subsection (5).

(7) A written determination concerning a complaint shall be available for public inspection, but the name of the complainant or adult resident shall not be disclosed without the complainant's or adult resident's consent.

(8) A complainant who is dissatisfied with the determination or investigation by the department may request an administrative review by the department. A request shall be submitted in writing to the director within 30 days after the mailing of the department's findings as described in subsection (5). The administrative review shall be conducted based on pertinent documentation or a verifiable statement submitted in writing by the complainant. The department shall send the results of the administrative review to the complainant. If the administrative review results in reconsideration of a complaint against the adult foster care facility, the department shall reopen the complaint investigation.

(9) Notwithstanding subsection (3) and sections 5 and 7(2) of the child protection law, 1975 PA 238, MCL 722.625 and 722.627, information or records in the possession of the department of health and human services or the department may be shared to the extent necessary for the proper functioning of the department of health and human services or the department in administering adult welfare or adult foster care licensing under this act or in an investigation conducted under section 43b of the social welfare act, 1939 PA 280, MCL 400.43b. Information or records shared under this subsection shall not be released by the department of health and human services or the department unless otherwise permitted under this act or other state or federal law.

History: 1979, Act 218, Eff. Mar. 27, 1980 ;-- Am. 2016, Act 492, Eff. Apr. 6, 2017 ;-- Am. 2018, Act 558, Eff. Mar. 28, 2019

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.

