

**Michigan Office of Administrative Hearings and Rules**  
**Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

**REQUEST FOR RULEMAKING (RFR)**

**1. Department:**

Licensing and Regulatory Affairs

**2. Bureau:**

Bureau of Community and Health Systems

**3. Promulgation type:**

Full Process

**4. Title of proposed rule set:**

Licensing Adult Foster Care Facilities

**5. Rule numbers or rule set range of numbers:**

R 400.601 - R 400.699

**6. Estimated time frame:**

12 months

**Name of person filling out RFR:**

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**7. Describe the general purpose of these rules, including any problems the changes are intended to address.**

There are six rule sets for licensing adult foster care facilities. Although most of them have undergone periodic review and revision, it has been too long since a comprehensive review and revision was done to ensure they comport with current practice standards, to harmonize them with current law and regulations, and to reflect the current organization of state licensing functions. There is a significant amount of duplication between rule sets. The purpose of promulgating a single new rule set for adult foster care facilities is to better protect the health, safety, and welfare of individuals receiving care and services. The new rule set will: Focus on core principles and standards of adult foster care licensing; fulfill statutory requirements; comport with current practice standards; and be free of redundant, obsolete, or unnecessary language. The new rule set will replace the following six rule sets, which will be rescinded:

1. Adult Foster Care Family Homes – R. 400.1401 – 400.1442
2. Adult Foster Care Congregate Facilities (21 or more) – R. 400.2401 – 400.2475
3. Adult Foster Care Large Group Homes (13-20)- R. 400.15101 – 400.15411
4. Adult Foster Care Small Group Homes (12 or less) – R. 400.14101 – 400.14601
5. Certification of Specialized Programs – R. 330.180 – 330.1809
6. Fire Safety Rules for Adult Foster Care Family and Small Group Homes (6 or less)– R. 400.2201 – 400.2376

**8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).**

Section 10 of 1979 PA 218, MCL 400.710, the Adult Foster Care Facility Licensing Act, authorizes the Department of Licensing and Regulatory Affairs to promulgate the rules.

**A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).**

By authority conferred on the department of licensing and regulatory affairs by section 9 of the Executive organization act of 1965, 1965 PA 380, MCL 16.109, and sections 10 and 18 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.710 and MCL 400.718, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2015-1, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 400.227.

**B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.**

Section 10 of 1979 PA 218, MCL 400.710, the Adult Foster Care Facility Licensing Act, mandates the Department of Licensing and Regulatory Affairs to promulgate the rules.

**9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.**

The proposed rules will replace six rule sets. The new rules will not conflict or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

**10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?**

The subject matter is not currently contained in any guidance, handbook, manual, instruction bulletin, form with instructions, or operational memorandum.

**11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?**

Yes, promulgation of the new rule set and rescission of the six existing rule sets are included in the LARA Annual Regulatory Plan.

**12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?**

Full Process

**13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.**

This new rule set will not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

**14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.**

Promulgation of a new rule set for licensing adult foster care facilities is proposed because the current, multiple rule sets need to be updated and harmonized to improve their effectiveness and efficiency. The project involves internal and external stakeholders that include bureau leadership, subject matter experts, Michigan LeadingAge, Michigan Center for Assisted Living (MCAL), and Michigan Assisted Living Association (MALA) and other stakeholders.

**15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.**

Six rule sets, encompassing 206 rules, will be rescinded. Most of these rules have been evaluated periodically; some of them have recently been revised, but a few have not been revised since 1979. Technology, economic conditions, or other factors have not changed the regulatory activity covered by the rules since the last evaluation.

**16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?**

There are no changes or developments that demonstrate there is no continued need for the rules. The six current rules sets will be rescinded and promulgated into one new rule set for licensing adult foster care facilities.

**17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.**

No

**Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.**