

R 400.4101 Definitions.

Rule 101. As used in these rules:

- (a) **“Behavior management room”** means a room or area approved for the confinement or retention of a resident. The door to the room may be equipped with a security locking device which operates by means of a key or is electrically operated and which has a key override and emergency backup in case of a power failure.
- (b) **“Case record”** means the individual file kept by an institution concerning a child who has been placed at the institution.
- (c) **“Chief administrator”** means the person designated by the licensee as having the day-to-day responsibility for the overall administration of a child caring institution and for assuring the care, safety, and protection of residents.
- (d) **“Child caring institution”**, hereinafter referred to as **“institution”**, means an institution as defined in section 1 of Act No. 116 of the Public Acts of 1973, as amended, being ~722.11 of the Michigan Compiled Laws.
- (e) **“Child placing agency”** means an agency as defined in section 1 of Act No.116 of the Public Acts of 1973, as amended, being ~722.111 of the Michigan Compiled Laws.
- (f) **“Department”** means the Michigan Family Independence Agency.
- (g) **“Developmentally disabled”** means an individual who has an impairment of general intellectual functioning or adaptive behavior which meets the following criteria:
 - (i) It originated before the person became 18 years of age.
 - (ii) It has continued since its origination or can be expected to continue indefinitely.
 - (iii) It constitutes a substantial burden to the impaired person’s ability to perform normally in society.
 - (iv) It is attributable to 1 or more of the following:
 - (A) Mental retardation, cerebral palsy, epilepsy, or autism.
 - (B) Any other condition of a person found to be closely related to mental retardation because it produces a similar impairment of requires treatment and services similar to those required for a person who is mentally retarded.
 - (C) Dyslexia resulting from a condition described in subparagraph (A) or (B) of this paragraph.
- (h) **“Direct care worker”** means a person who provides direct care and supervision of children in an institution.

- (i) **“License”** means a license issued by the department to a non-governmentally operated institution or a certificate of approval issued by the department to a governmentally operated institution indicating that the institution is in compliance with these rules.
- (j) **“Licensee”** means the agency, association, corporation, firm, organization, person, partnership, department, or agency of the state, county, city or other political subdivision that has submitted an original application for licensure or approval or has been issued a license or certificate of approval to operate a child caring institution.
- (k) **“Licensing authority”** means the administrative unit of the department that has the responsibility for making licensing and approval recommendations for an institution.
- (l) **“Medication”** means prescription and nonprescription medicines.
- (m) **“Mentally retarded”** means significantly sub-average general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior.
- (n) **“Open institution”** means an institution or facility, or portion thereof, which is used to house residents and which is not locked against egress, except for an approved behavior management room.
- (o) **“Parent”** means biological parent (including custodial and non-custodial parent), adoptive parent, or guardian.
- (p) **“Protection”** means the continual responsibility of a licensee to take reasonable action to insure the health, safety, and well being of a resident while under the supervision of the licensee or an agent or employee of the licensee, including protection from physical harm, humiliation, intimidation, and social, moral, financial and personal exploitation while on the premises.
- (q) **“Resident”** means a child who is admitted to and resides in an institution.
- (r) **“Residential treatment institution”** means an institution whose primary purpose and function is to provide habilitative or rehabilitative services.
- (s) **“Secure institution”** means an institution facility, or portion thereof, other than a behavior management room, used to retain residents in custody. Outside doors and individual sleeping rooms usually have locks preventing egress from the building.
- (t) **“Short-term institution”** means an institution that primarily provides care for residents pending court actions or other placement planning as opposed to primarily providing habilitative or rehabilitative services.
- (u) **“Social service supervisor”** means a person who supervises a social service worker.
- (v) **“Social service worker”** means a person who works directly with residents, their families, and other relevant individuals and who is primarily responsible for the development, implementation, and review of service plans for the resident. This definition shall not be

interpreted to prevent a team approach to service plan development and implementation.

(w) “Terms of license” or “terms of approval” means those designations noted on an institution’s license or certificate of approval for which the institution is authorized or approved. Such designations include the following:

- (i) Short -term institution.**
- (ii) Residential treatment institution.**
- (iii) Secure institution**
- (iv) Open institution.**
- (v) Age of children to be accepted for care.**
- (vi) Sex of children to be accepted for care.**
- (vii) Number of children to be accepted for care.**
- (viii) Effective and expiration dates.**

Interpretation/Method

(b) Case Record:

A single, easily retrievable, compilation of material that an institution shall maintain on each resident. Case records may be electronic if the software is capable of producing a hard copy upon request.

(d)

- Power of Attorney does not negate the need for a license.
- Drug treatment programs that are a part of an accredited medical hospital cannot be licensed.
- Drug treatment programs that are not part of the accredited beds of a medical hospital need to be licensed.
- A Boarding School licensed by the Michigan Department of Education is not a Child Caring Institution

(q) Resident:

The following are guidelines for situations where persons over 18 years of age may reside in licensed child caring institutions.

1. Continuity of Care

The Child Care Organization Licensing statute (Act 116) Section 1(k) allows a child caring institution to continue to provide care to an existing resident following the resident’s 18th birthday, providing the total number of those residents who become 18 years of age does not exceed the following:

- (a) Two, if the total number of residents is 10 or fewer.

- (b) Three, if the total number of residents is not less than 11 and is not more than 14.
- (c) Four, if the total number of residents is not less than 15 and not more than 20.
- (d) Five, if the total number of residents is 21 or more.

In addition to the above provisions, all youth who remain as juvenile court or DHS wards beyond their 18th birthday are to be regarded as minors for the purposes of allowing them to continue to receive residential care in a child caring institution. This group is not subject to the numerical limitations noted above.

R 400.4105 Rule exemption.

Rule 105(1) Upon written request of an applicant or licensee, the department may grant an exemption from an administrative rule if there is clear and convincing evidence that the alternative to the rule complies with the intent of the administrative rule from which exemption is sought.

(2) The decision of the department, including the qualification under which the exemption is granted, shall be entered upon the records of the department and a signed copy shall be sent to the applicant or licensee. This exemption may remain in effect for as long as the licensee continues to comply with the intent of the rule or it may be time limited.

Interpretation/Method:

Allows licensee to demonstrate alternative ways of meeting the rule intent.

“Clear and convincing evidence” means the recommended alternative demonstrates equal protection for youth in care.

The request for an exemption shall be in writing and sent to the assigned child welfare licensing consultant.

Approval of an exemption shall include the basis for the request, the alternative to complying with the rule for which the exemption or variance is sought, the organizations methods for assuring ongoing compliance with the alternative, the time period for which the exemption or variance is needed, and facts to support that the alternative proposed will provide equivalent protection to the health, welfare, safety and needed services of those children affected.

The director of the Office of Children and Adult Licensing makes the final determination regarding approval or denial of all exemption requests from licensees and applicants.

If an individual has a bachelor's degree, but not in one of the rule specified degree areas, the institution may request a variance. The individual's course work may be considered for variance approval if at least 25% of the course work for a bachelor's degree is in rule specified areas.

R 400.4106 Original licensure; application.

Rule 106 An applicant applying for an original license shall provide all of the following:

- (a) Evidence of need for the type of program the institution proposes to provide.**
- (b) Evidence of sufficient financial resources to meet applicable licensing rules following the issuance of the initial license.**
- (c) A plan of financial accounting developed in accordance with generally accepted accounting practices.**

Interpretation /Method:

Has the applicant identified need(s) to be met?

“Evidence of need” means that the organization has a program description, projected costs for the services to be offered, has shared this information with potential referral sources, and the referral sources have confirmed that they will consider using the program. Tie-bar to Rule 109, Program statement.

Subpart (b) requires the organization to demonstrate the ability to sustain operations including all services identified, for at least the first year. Tie-bar to Rule 108 Financing and audit.

A letter from an accounting firm stating that the organization’s plan is appropriate is one method of determining if subpart (c) is in compliance. Tie-bar to Rule 108 Financing and Audit.

“Plan of financial accounting” means a plan for setting up and keeping the books of the organization.

Licensing consultants are to regard government organizations as having acceptable accounting practices, barring evidence to the contrary.

After original licensure, this rule becomes nonapplicable.

R 400. 4108 Financing and audit.

Rule 108 The licensee shall do both of the following:

- (a) Annually develop a plan of financing to carry out the institution's program to assure proper care for residents is provided and that licensing rules are followed. The budget shall include projected income and expenditures.**
- (b) Obtain an audit of all financial accounts. Audits for nongovernmental institutions shall be conducted annually by an independent certified public accountant who is not administratively related to the agency.**

Intent:

This rule is used to assure that an agency has adequate funding to provide proper care to children received.

Compliance exists when an institution:

1. Has developed an annual plan of financing.
2. Has implemented the plan
3. Has obtained an annual audit.
4. The audit is performed by an independent Certified Public Accountant.

Definitions:

"Plan of financing" means the method of assuring funding for carrying out the institution's programs. A plan must identify sufficient income to properly operate the institution.

"Audit" means an official verification of financial accounts.

Interpretation:

The financing plan adopted by the organization must enable the organization to deliver identified programs subject to licensing.

Budget and audits must deal with all licensed program components.

Requires an accounting system that assures accurate and appropriate disbursement and collection.

A financial report offered as the institution's audit must bear the title "**Audit**".

The certified public accountant that performs the audit cannot be affiliated with the institution.

Institutions shall document that annual audits have been completed.

Licensing consultants are to regard governmental organizations as having acceptable accounting practices, barring evidence to the contrary.

An annual audit shall be completed within the 12 months that follow the close of the accounting period.

R 400.4109 Program Statement

Rule 109 (1) An institution shall have a current written program statement which specifically addresses all of the following:

- (a) The types of children to be admitted for care.**
 - (b) The services provided to residents and parents directly by the institution and the services provided by outside resources.**
 - (c) Policies and procedures pertaining to admission, care, and discharge of residents.**
- (2) The program statement shall be made available to residents, parents and referral sources.**

Compliance exits when the following has been achieved:

1. Institution has a written program statement.
2. Program statement contains the required elements.
3. Statement reflects the current practices.
4. Statement is made available upon request.

Definitions:

“Types of children” means the institution has identified by age, sex, numbers, needs, and characteristics the children to be received for care.

“Services provided” means the institution has identified all services to be provided by the institution for the resident and/or parent. The institution must identify services provided by outside resources and identify the providers.

Interpretation:

Program statements must answer: to whom care is provided, what type of care and services are provided and by whom, and why a resident is admitted and discharged.

The institution shall identify how the statement has been made available to residents, parents, and referral sources. Availability may be shown by a file document that states, “Received” or posting on a public bulletin board.

If religious training is provided the program statement shall identify such services. Tie-bar to Rule 138, Religious Policy and Practices.

Noncompliance is to be cited if the current program offered is not the same program described in the institution’s program statement.

Noncompliance is to be cited if the institution is serving children that are not a part of the program statement description.

R 400.4111 Job description

Rule 111 There shall be a job description for each staff position which identifies duties, required qualifications, and the lines of authority.

Interpretation/Method:

All people who work in the institution must have a job description.

All responsibilities for the operation of the institution are to be covered by the composite of the job descriptions.

Staff must know their job description and to whom they report.

The organization's practice must conform to the descriptions.

The organization has the responsibility to demonstrate how all responsibilities and authorities mesh to ensure the care and protection of the residents.

An organizational chart is one way to demonstrate how all responsibilities are covered. When an organizational chart is used, lines of authority must be clear.

R 400.4112 Staff qualifications

Rule 112. A person with ongoing duties shall be of good moral character, emotionally stable, and of sufficient health, ability, experience, and education to perform the duties assigned.

Intent:

This rule is used to ensure that institutions only use the services of qualified individuals.

Compliance exists when:

1. The institution has methodologies for determining all of the characteristics identified in the rule.

Good Moral character	Emotional stability
Health	Experience
Ability	Education

2. The institution uses the methodologies identified.
3. Duties assigned match the person's characteristics.

Definitions:

“Ongoing”: means on a regular scheduled or planned basis. For example, duties may be for one hour a week or twice a month. It does not cover onetime short-term interactions.

“Ability”: means a person can perform tasks assigned. Lack of ability can be judged by a one time incident or can be judged by a pattern of action over time.

- If an employee acts in a way that violates policy or procedure, even if the person initially demonstrated the ability to do the job, this is to be considered “lack of ability”.
- When something occurs that is not covered by policy or procedure, and it is something that a reasonable person would understand to be inappropriate, this is to be considered a “lack of services conducive to the welfare of children”.

Interpretation:

It is not sufficient to make an assessment of compliance regarding each staff member only once at the beginning of a new assignment. An institution must have a methodology for periodic assessment of compliance.

The licensee and chief administrator are responsible for the assessment and selection of appropriate staff and caregivers.

If the function of a volunteer, student or person under contract is covered by an administrative rule, the person shall meet the requirements of the applicable rule(s).

If, as a result of a Children's Protective Services investigation, a staff person's name will be entered on Central Registry, this rule is to be cited.

Good Moral Character must be evaluated for the chief administrator and licensee by the consultant rather than the organization. The licensing consultant is to obtain a signed OCAL –1326 from the chief administrator and licensee/licensee designee and have LEIN and Central Registry records checks completed.

Section 9 of Public Act No. 116 of the Public Acts 1973 states:

Sec. 9 (1) A staff member shall not be present in a child care center, child caring institution or child placing agency if he or she has been convicted of either of the following:

(a) Child abuse or child neglect.

(b) A felony involving harm or threatened harm to an individual within 10 years immediately preceding the date of hire.

(2) A volunteer shall not have unsupervised contact with children who are in care of a child care center, child caring institution or child placing agency if he or she had been convicted of either of the following:

(a) Child abuse or child neglect.

(b) A felony involving harm or threatened harm to an individual within 10 years immediately preceding the date of offering to volunteer at the child care center, child caring institution, or child placing agency.

(3) Before a staff member or unsupervised volunteer may have contact with a child who is in the care of a child care center, child caring institution, or child placing agency, the staff member or volunteer shall provide the child care center, child caring institution, or child placing agency with documentation from the Family Independency Agency that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. For individuals that are employed by or volunteer at a child care center, child caring institution or child placing agency, the child care center, child caring institution or child placing agency shall comply with this subsection not later than the date on which that child care center's, child caring institution's or child placing agency's license is issued or first renewed after the effective date of the amendatory act that added this section.

(4) Each child care center, child caring institution or child placing agency shall establish and maintain a policy regarding supervision of volunteers who are parents of a child receiving care at the child care center, child caring institution or child placing agency.

A licensee is required to make a determination of good moral character of the staff they hire. The licensee should have a staff assessment and selection procedure in place to make the assessment. It is the responsibility of the institution to determine good moral character for all other staff.

The chief administrator or licensee must complete and submit, at the time of original application and for renewal of license, an OCAL –2085, “Good Moral Character Certification Statement”.

Noncompliance with this rule can be cited identifying the agency as directly responsible for the violation or responsible for the actions of staff person, if the institution has failed to properly screen, train and assign staff.

If after proper screening, training, and assignment a staff person demonstrates inability through repeated errors, or by behavior a reasonable person would consider incompetent, the licensing report is to identify “the actions of Staff X has placed the agency in noncompliance with rule 112”.

When an agency is cited for a violation of this rule and the consultant is determining what the licensing recommendation will be, the consultant is to look at the agency’s response to the staff person’s actions and at whether there is a pattern of violation of a similar nature.

R400.4113 Employee Records

Rule 113. Employee records shall be maintained for each employee and shall include all of the following information:

- (a) Name.**
- (b) Verification of education where the minimum education requirements are specified by rule.**
- (c) Work history.**
- (d) Three references which are obtained prior to employment from persons unrelated to the employee.**
- (e) A record of any convictions other than minor traffic violations.**
- (f) A written evaluation of the employee's performance within a probationary period.**
- (g) Verification of health where specified by rule.**

Intent

This rule requires that certain identified information be maintained for each person working for the institution.

Compliance exists when:

1. An institution has a personnel record for each employee and volunteer
2. The institution's personnel record has all of the required content.

Definitions:

"Each employee" means all positions within the facility as well as any other person who has unsupervised contact with children. This includes student interns and volunteers.

"Record of Convictions" means a written account of any and all convictions.

MCL 722.119 Section 9 (1) A staff member shall not be present in a child care center, child caring institution, or child placing agency if he or she has been convicted of either of the following:

- (a) Child abuse or child neglect*
- (b) A felony involving harm or threatened harm to an individual within 10 years immediately preceding the date of hire.*

(2) A volunteer shall not have unsupervised contact with children who are in the care of a child care center, child caring institution, or child placing agency if he or she has been convicted of either of the following:

- (a) Child abuse or child neglect.*

(b) A felony involving harm or threatened harm to an individual within 10 years immediately preceding the date of offering to volunteer at the child care center, child caring institution or child placing agency.

The agency must post how the agency determines if an employee or volunteer has a criminal record. If the agency indicates that they complete criminal checks the agency must provide documentation in each employee record.

The institution must either use ICHAT or LEIN or the institution must have the prospective employee provide a clearance completed by a law enforcement agency such as the Michigan State Police. The practice must comply with the posted policy.

Interpretation:

Items (a) –(e) and (g) must be present for all new employees or volunteers prior to assignment to regulated tasks.

The consultant is to confirm:

(1) A record exists for each employee.

(2) All required elements of an employee record exists.

References may be in the form of written documentation of conversations or letters of reference. When a person is changing jobs within an agency, annual evaluations related to job function may be accepted as a reference.

References must be written and dated within the 12 months preceding hire. The name of the person giving the reference and this person's relationship to the employee must be documented.

See individual rules covering position education requirements.

A statement should appear on the employment application that asks the employee if he or she has been convicted of an offense other than a minor traffic violation.

When a record of convictions exists, the institution is to take the following into consideration when documenting assessment of the conviction record:

- Circumstances surrounding the offense(s)
- Length of time since the offense(s)
- Evidence of the offender's rehabilitation
- Relationship of the offense(s) to licensed activity.

The basis for the decision shall be a part of the written documentation in the employee record.

MCL 722.119 Section (3) Before a staff member or unsupervised volunteer may have contact with a child who is in the care of a child care center, child caring institution, or child placing agency, the staff member or volunteer shall provide the child care center, child caring institution, or child placing agency with documentation from the family independence agency that he or she has not been named in a central registry case as the perpetrator of child abuse or neglect.

Subpart (f) The institution can define the length of the probationary period. It is recommended that an evaluation be completed within 6 months of the hiring date.

R 400.4114 Tuberculosis screening for employees and volunteers
Rule 114. The licensee shall document that each employee and volunteer who has contact with residents 4 or more hours per week for more than 2 consecutive weeks is free from communicable tuberculosis. Freedom from communicable tuberculosis shall be verified within 3 year period before employment and shall be verified every 3 years after the last verification.

Interpretation

This documentation may be maintained apart from employee or volunteer records, but must be available for review for verification of compliance with this rule.

Documentation must include these factors:

1. Tuberculosis testing must be completed and maintained for each employee and volunteer who has contact with residents 4 or more hours per week for more than 2 consecutive weeks.
2. The Tuberculosis testing must document that the employee or volunteer is free from communicable tuberculosis.

Verification must be received prior to employment and every 3 years.

R 400.4116 Employees; qualifications.

Rule 116. An employee who is in a position and who was approved under the rules that these rules supersede is deemed to be qualified for that position at the institution. A person appointed to a position after these rules become effective shall meet the qualifications of these rules for that position.

Interpretation

This is a “grandperson” rule and applies to the institution where the person was employed at the time the rules became effective. These rules were effective November 15, 1983.

R400.4117 Chief administrator; qualifications.

Rule 117. A chief administrator, at the time of appointment, shall possess 1 of the following:

- (a) A master's degree in social work, sociology, psychology, guidance and counseling, education, business administration, criminal justice, or public administration and 2 years experience in a child caring institution or child placing agency.**
- (b) A bachelor's degree with a major in social work, sociology, psychology, guidance and counseling, education, business administration, criminal justice, or public administration and 4 years of post bachelor degree experience in a child caring institution or child placing agency.**

Interpretation:

Review diplomas or transcripts for appropriate major. The diploma must identify the specific degree granted.

Review work history for appropriate work experience.

A licensee may elect to designate a person to operate the child caring institution. Such a person must meet the definition of "Chief Administrator", Rule 101(c) and the requirements of this rule.

R400.4118 Social services supervisor; qualifications.

Rule 118. A social services supervisor, at the time of appointment to the position, shall possess 1 of the following:

- (a) A master's degree in social work and 1 year of experience as a social services worker.**
- (b) A master's degree in sociology, psychology, criminal justice, or guidance and counseling and 2 years of experience as a social services worker.**
- (c) A bachelor's degree in sociology, psychology, social work, criminal justice, or guidance and counseling, and 4 years experience as a social services worker in a child caring organization. Two years of the 4 years of experience shall be in a child caring institution.**

Interpretation:

Review diplomas or transcripts for appropriate major. The diploma must identify the specific degree granted.

Review work history for appropriate work experience.

Experience as a social services worker may be obtained only in a child placing agency or child caring institution.

“Child care organization” means a governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training, and supervision, notwithstanding that educational instruction may be given. Child care organizations includes organizations commonly described as child caring institutions, child placing agencies, children's camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, group homes, or day care homes.

R400.4119 Social service worker; qualifications.

Rule 119. A social service worker, at the time of appointment to the position, shall possess a bachelor's degree with a major in criminal justice, sociology, psychology, social work, or guidance and counseling.

Interpretation:

Review diplomas or transcripts for appropriate major. The diploma must identify the specific degree granted.

R400.4120 Supervisor of direct care workers; qualifications.

Rule 120. A supervisor of direct care workers shall have 1 of the following:

- (a) A bachelor's degree and 2 years of work experience in a child caring institution.**
- (b) Two years of college and 3 years of work experience in child caring institution.**
- (c) A high school diploma and 4 years of work experience in a child caring institution.**

Interpretation:

Review diplomas or transcripts for level of education.

A G.E.D. certificate is acceptable in place of a high school diploma.

R400.4121 Direct care worker; qualifications.

Rule 121. A direct care worker shall have completed high school.

Interpretation:

A diploma or G.E.D. certificate must be available for review.

R400.4126 Sufficiency of staff.

Rule 126 (1) The licensee shall have a sufficient number of administrative, supervisory, social service, direct care, ad other staff to perform the prescribed functions required by these administrative rules and to provide for the needs, protection, and supervision of residents.

(2) One direct care worker shall be responsible for not more than 10 residents at one time during residents' normal awake hours and not more than 20 residents at one time during residents' normal sleeping hours.

Definitions:

“Sufficient number” means the number necessary to perform the functions to achieve and maintain rule compliance.

Interpretation:

Having sufficient staff is based on the organizations' program statement. The institution must have all of the defined positions: direct care, a direct care supervisor, social service worker, social services supervisor, and administrator. A person may fill more than 1 position but must meet the qualifications for each position they fill. If an individual fills more than one position within the institution this individual cannot supervise their own work.

The staffing ratio identified in subpart 2 is to be considered the absolute minimum-staffing ratio allowed.

An institution can be in noncompliance with subpart (1) of this rule and be in compliance with the “direct care worker ratio” of subpart (2) of this rule, for example:

- There are specific types of children with certain identified needs that require a higher level of staff to provide for basic protection and care.
- An institution that does not require same sex supervision of showers may not be providing adequate supervision of its residents.

Some ways to determine sufficiency of staff may include: a review of staffing schedules within the period under review, A review of unusual incident reports, and direct observation of how a unit is functioning.

When youth are in the classroom in a program where there is an on-grounds school, subparts (1) and (2) apply, however, the staff can be in the school building but not in the classroom. Teachers may count in the staffing ratio only when they have met the training requirements for direct care staff.

During the time when a resident who is the mother of an infant is providing direct supervision of her infant, the institution's child care ratio does not have to include the infant as part of the child- to-staff ratio. For those periods of time when the resident mother is unavailable to supervise her child, the institution must have and follow a specific policy that identifies how supervision is provided for the children of the residents.

Fire safety rules count all individuals including mothers and children to determine compliance.

R400.4127 Staff to resident ratio.

Rule 127(1) The licensee shall develop and adhere to a written staff to resident ratio formula for direct care workers.

(2) The ratio formula for direct care workers shall correspond with the institution's purpose and the needs of the residents and shall assure the continual safety, protection, and direct care and supervision of residents.

(3) The ratio formula used shall not be less than the number of workers required by R 400.4126(2).

Intent

This rule requires the institution to assess its purpose and the needs of the children served in order to determine the proper staffing necessary.

Compliance exists when an institution:

- (1) Has developed a written staffing formula.
- (2) Follows the formula.
- (3) Identifies the relationship of the formula to its program statement and the needs of the children served.
- (4) Formula is not less than that required by Rule 126.

Definitions:

“ Institutions’ purpose” means the program components referred to in the institutions program statement that must identify who is to be served, how they will be served and what services will be made available.

“Continual” means without interruption. At all times there is a direct care worker on duty, responsible for no more than the number residents specified in the staff-to- resident ratio, in the area where the residents are located and responsible for the care and safety of each group of residents.

- “Continual” does **not** mean constant, line-of –sight observation of each individual resident, unless the resident’s needs dictate constant attention.
- An emergency situation may necessitate the temporary deployment of staff to another part of the program. Even during an emergency situation youth must be supervised at all times.

Interpretation:

The ratio formula cannot be less than the requirements of Rule126.

The ratio formula must be in writing and clearly relate to the needs of the residents. Each separate program component must be viewed individually to determine if staffing is appropriate.

Due to the nature of activities, some activities require more supervision than others.

Live-in staff's own children are to be counted when determining the facility's staff-to-resident ratio.

If an institution provides residential care for both a mother and her infant, during the time when the mother of the infant is providing direct supervision of her infant, the institutions' child care ratio does not have to include the infant as part of the child-to-staff ratio.

R400.4128 Initial staff orientation and ongoing staff training

Rule 128(1) The licensee shall provide an orientation program for new employees. The orientation shall include the following:

- (a) The institution's purpose, policies, and procedures, including discipline, crisis intervention techniques, and emergency and safety procedures.
- (b) The role of the staff members as related to service delivery and protection of children.

(2) There shall be a written plan of ongoing staff training related to individual job functions and the institution's program.

(3) The licensee shall document that each direct care worker participated in a minimum of 50 clock hours of planned training within the first year of employment and a minimum of 25 clock hours of training annually thereafter.

(4) Training opportunities shall include all of the following:

- (a) Developmental needs of children.
- (b) Child management techniques
- (c) Basic group dynamics
- (d) Appropriate discipline, crisis intervention, and child handling techniques.
- (e) The direct care worker's and the social services worker's role in the institution.
- (f) Interpersonal communication.
- (g) Proper and safe methods and techniques of restraint
- (h) First aid.

Interpretation:

Orientation is required for all staff of an organization including students and volunteers.

Shadowing can be a part of orientation but cannot be the only form of orientation.

If the function of a volunteer or student is as a direct care worker, subparts (2), (3), and (4) also apply.

The orientation must be formalized with written documentation when counting hours as part of subpart (3).

All required elements of the orientation must be documented. This includes emergency procedures. See Rule 170.

Training as identified in subpart (3) is only required for full and part-time direct care workers.

"Crisis intervention" should include at a minimum, de-escalation, physical restraint, and suicide prevention.

MCL 722.112a Institution, center or home; person certified in first aid and CPR; applicability

Sec. 2a(1) A child caring institution, child care center, or group daycare home shall have on duty at all times while the institution, center or home is providing care to 1 or more children at least one person who has been certified within the preceding 36 months in first aid and within the preceding 12 months in age – appropriate cardiopulmonary resuscitation by the American Red Cross, the American Heart Association, or an equivalent organization or institution approved by the department.

A violation of subpart (4)(h) is to be cited when first aid training is not provided to all staff. MCL 722.112a is to be cited when a person with CPR and First Aid certification is not on duty.

R400.4130 Privacy and confidentiality

Rule 130 (1) An institution shall assure resident and parent privacy and confidentiality and shall protect residents from exploitation.

(2) A resident's identity may be disclosed for public purposes or publicity only after both of the following criteria are met:

(a) The parent has consented.

(b) The resident has consented if the resident is capable of consent.

Interpretation:

An organization must have a method for the purpose of assuring that privacy and confidentiality are maintained and that exploitation is prevented.

An organization must have a method for assuring that consent is received and documented prior to disclosure of a resident's identity.

R400.4131 Compliance with child protection law; required

Rule 131. The licensee shall develop and implement a written plan to assure compliance with the provisions of Act NO. 238 of the of the Public Acts of 1975, as amended, being 722.621 et seq. of the Michigan Compiled Laws, and known as the child protection law.

Interpretation:

An organization must have policy and procedures for the purpose of assuring that the provisions of the child protection law are met.

The minimum content of the written plan must include:

Definitions	Who in the institution makes the report to the agency.
Reporting location	Timeframes
Immediate Oral reports	Written reports within 72 hours
Investigations	Confidentiality

Policy must be clear that all staff, including direct care workers, are required reporting persons.

The plan for the institution must state that the institution is required to **REPORT SUSPECTED CHILD ABUSE OR NEGLECT** without doing an internal investigation.

Practice must conform to policy.

The Child Welfare Licensing Consultant completes the Child Protection Services Investigation in child caring institutions. The organization should make the report to the assigned consultant or to the toll free complaint number, 866-856-0126.

R400.4132 Grievance procedures.

Rule 132 An Institution shall develop and follow written procedures for redressing concerns, disagreements, complaints and grievances of parents and residents.

Interpretation

An organization must have policy and procedures for the purpose of assuring that grievances are appropriately handled.

Staff, parents and residents shall be given information on how to follow the written grievance process.

R 400.4133 Institutional care for children under 6 years of age.

Rule 133 A child under 6 years of age shall not remain in an institution for more than 30 days, unless this stay is documented to be in the best interest of the child.

Interpretation

Clear documentation must be present to justify the presence of a child under 6 years of age beyond 30 days.

A child caring institution whose written program statement and program provide residential care to mothers and their infants may do so and comply with the Child Caring Institution Rule 133 provided the program's intent is to involve the mother in the infant's care.

R 400.4134 Case record maintenance.

Rule 134. (1) A case record shall be maintained for each resident.

(2) Service plans and narrative entries shall be dated and shall identify the individual making the entries.

(3) Records shall be maintained in a uniformed and organized manner, shall be protected against destruction and damage, and shall be stored in a manner that safeguards confidentiality.

Intent:

This rule is used to assure that child records are cared for properly.

Compliance exists when:

- A case record exists for each resident.
- Case records are maintained using the same format across a program component.
- Records are protected from damage or loss.
- Access to case records is controlled.

Interpretation:

Records shall be made available for review by licensing consultants on any resident admitted since the previous inspection, cared for since the last inspection or terminated from care since the last inspection.

The organization is required to have a method to secure the records and control access.

Records must be protected against possible destruction, i.e. flood or fire.

If a teen parent is providing primary care for their infant, and has legal custody, only one case record is required.

R 400.4137 Discipline and behavior management.

Rule 137 (1) An institution shall establish and follow written policies and procedures regarding discipline and behavior management. Upon request, these shall be available to all residents, their families, and referring agencies. Staff shall receive a copy of these policies and procedures and shall comply with them.

(2) An institution shall prohibit all cruel and severe discipline, including any of the following:

- (a) Any type of severe physical discipline inflicted in any manner.
- (b) Group discipline for misbehavior of individuals, except in accordance with the institutions discipline policy.
- (c) Verbal abuse, ridicule, or humiliation
- (d) Denial of any essential program services
- (e) Withholding any meal.
- (f) Denial of visits or communications with family.
- (g) Denial of opportunity for at least 8 hours of sleep in a 24-hour period.
- (h) Denial of shelter, clothing, or essential personal needs.
- (i) Excessive chemical, mechanical, or physical restraint.

(3) Residents shall not be permitted to discipline other residents, except as part of an organized therapeutic self governing program that is conducted in accordance with written policy and is supervised directly by designated staff.

Intent:

An institution must have and follow written behavior management and discipline policies and procedures.

Definitions:

“Cruel and severe”, means discipline that is demeaning, demoralizing and done in such a manner that it attacks the individual rather than the problematic behavior.

“Severe physical discipline” is defined to include hitting of any kind.

“Excessive” means any method used beyond the minimum amount necessary to protect the individual, or over a longer period of time than is necessary for the child to regain their composure.

“Chemical restraint” is a means of discipline that includes any drug used to control an individual’s behavior.

Interpretation:

Policies and procedures should reflect that the primary focus of behavior management is prevention of the occurrence of problems.

An organization must provide staff with training to assure that resident discipline and behavior management policies are followed.

Policy must clearly identify acceptable methods of discipline for positive behavior management.

Policy must clearly identify prohibited practices, including, at a minimum, all of the practices prohibited by the rule.

An injury to a child, in and of itself, is not automatically a rule violation.

R 400.4.138 Religious policy and practices.

Rule 138. (1) Each resident shall not be prohibited from participating in religious activities and services in accordance with the resident's own faith and parental direction.

(2) An institution shall establish and follow written policies for religious participation and training of residents. The institution shall provide the policy to parents and referral sources upon request.

Interpretation:

An organization must have policy and procedures for the purpose of assuring that each resident can practice their own faith. If religious training is an integral part of the program, it must be part of the organization's program statement.

An organization may provide its own religious training when that is part of the program statement and provided to anyone asking to review it. The program statement shall be provided to affected persons, including the youth, prior to a placement decision. It is not acceptable for an organization to impose behavioral consequences when a youth refuses to participate, even if the youth initially agreed to participation at the point of admission.

Practice must conform to policy.

R400.4141 Initial documentation.

Rule 141 Upon admission, all of the following shall be in the resident's case record:

- (a) Name, address, birthdate, sex, race, height, weight, hair color, eye color, identifying marks, religious preference, and school status.
- (b) A brief description of the resident's preparation for placement and general physical and emotional state at the time of admission.
- (c) Name, address, and marital status of parents and name and address of legal guardian, if known.
- (d) Date of admission and legal status.
- (e) Documentation of legal right to provide care.
- (f) Authorization of provide medical, dental and surgical care and treatment as provided in sections 14a (1), (2), and (3) of Act No. 116 of Public Acts of 1973, as amended being %722.124a(1), (2), and (3) of the Michigan Compiled Laws.
- (g) A brief description of the circumstances leading to the need for care.

Intent:

This rule is used to identify documents and information that are to be in each resident's case record.

Compliance exists when:

1. Case records exist for each resident.
2. All of the required information and documents are in each case record.

Definitions:

"Upon admission" means within the first 24 hours.

"School status" means if the child is in or out of school, grade level in or completed, current or last school attended, and any special school programs that were being provided when the child last attended school.

"Resident preparation" means a description of the steps taken prior to admission to prepare the child for placement. This includes the sharing of the institution's rules and the daily schedule.

"Physical and emotional state" means the results of an observation by designated staff looking for such things as general appearance, bruises and the attitude and current behaviors demonstrated by the child.

"Circumstances leading" means the explanation of what led to this placement.

Interpretation:

Acceptable forms of documentation of legal right to provide care are:

1. Court Order
2. Parental or guardian written permission
3. Purchase of service agreement
4. Admission through DCH or Local CMH
5. Interstate compact request, FIA 4332
6. Tribal court order

As required in subparts (e) and (f), for runaways, documenting a phone call to parent(s) for their verbal permission until written permission is received is acceptable. The phone call to the parent is to be initiated within 2 hours and written permission received within 72 hours of the receipt of verbal permission.

Parents under 18 years of age may not authorize placement or treatment unless the parent is a legally emancipated minor.

R 400.4142 Resident and parent visitation

Rule 142 An institution shall make provisions for visits between each resident and the resident's parents, except where parental rights have been terminated or the resident's record contains documentation that visitation is detrimental to the resident.

Interpretation:

An organization must have and conform to a method, established and known, for the purpose of assuring that parental visits are encouraged and facilitated.

Visits may be prevented when parental rights have been terminated.

Documentation that visits are detrimental to the resident must be in the record prior to stopping or prohibiting visits.

The location of the visits, either in the institution or in the home, is discretionary. However, there must be a plan for visits at one or the other or both locations.

R. 400.4143 Procedures for serving developmentally disabled.

Rule 143. An institution providing care to developmentally disabled residents shall required direct care workers to follow written procedures for bathing, feeding, toilet training, and daily activities of residents.

Interpretation:

An organization must have policy, procedures, and staff training (Rule 128) that assures developmentally disabled residents are adequately and properly cared for.

Policy and procedures and training must include all requires elements specified in this rule.

R 400.4144 Education

Rule 144. (1) An institution shall not admit a child for care unless an appropriate educational program can be provided.

(2) Provisions shall be made for an appropriate education program in accordance with Act No. 451 of the Public Acts of 1976, as amended, MCL 380.1 et seq. known as the school code of 1976, not later than 5 school days after admission and continuously thereafter for each resident of school age.

Interpretation:

The educational program may be provided by the local or intermediate school district at established community schools or at an on site school at the institution. The institution may operate its own on site school program. The institution may arrange for educational services with a private school, either on site or off site.

The educational program provided must be appropriate for the residents and meet the educational needs of the residents.

R400.4145 Mail

Rule 145. Residents shall be permitted to send and receive mail. Residents' letters shall not be read by staff, except where there is clear and convincing evidence to justify such actions. If a letter requires staff reading, the resident shall be present when the letter is opened. Packages are exempted from the prohibition against inspection.

Interpretation:

When outgoing mail is censored, the reasons must clearly justify the action.

Methodology must allow a resident to be present if staff opens their mail. If, after opening, it is determined that mail is inappropriate, it may be withheld and returned to sender.

Packages may be inspected without the resident being present. If after opening, it is determined that the content of the package is not appropriate, it may be withheld and returned to sender.

Practice shall conform to policy.

Rule 400.4146 Personal possessions and money.

Rule 146(1) Provision shall be made to safeguard resident's personal possessions and money.

(2) A resident's possessions and money held by the licensee shall be accurately accounted for and returned to the resident or guardian upon discharge. Accessible storage space shall be provided for personal possessions.

Interpretation:

When valuables are in the possession of the institution, proper accounting practices must be used in receiving, dispersing, and returning valuables to a resident. The use of inventories and logs is appropriate.

Accurate records must be maintained for each resident.

Nothing in this rule prohibits an institution from establishing a list of prohibited items.

R 400.4147 Clothing

Rule 147 Each resident shall have sufficient clean, properly fitting, seasonal clothing.

Interpretation:

If a resident does not have sufficient clothing, the institution is responsible for providing necessary clothing while the resident is in care.

Clothing must be adequate in amount, maintained in a clean and sanitary manner, sized to the child, and appropriate for the season and weather.

“Sufficient” means appropriate to the activity and to environmental conditions.

R 400.4148 Resident work experience.

Rule 148. Work experiences for a resident shall be appropriate to the age, health and abilities of the resident.

Interpretation:

Work experiences are not required by the rule. The institution's policies may specify that work experiences are required.

A resident shall not be required to engage in work for which they have not been properly trained.

R 400.150 Behavior management rooms; department approval required.

Rule 150 (1) Prior to establishing a behavior management room, an institution shall have written approval from the department licensing authority.

(2) A behavior management room established and approved after the effective date of these rules shall be equipped with a 2 way monitoring device. The device shall be on and monitored by an employee when a resident is in the room.

(3) A behavior management room shall be constructed and located so as to allow for both visual and auditory supervision of a resident.

(4) The room shall be constructed and equipped so as to minimize suicide risk. Break resistant glass and security screening shall be provided. The room shall have adequate lighting.

(5) The dimensions of the room shall not be less than 48 square feet for those behavior management rooms constructed after the effective date of these rules.

(6) In a secure facility, when a resident is confined to a room other than at normal sleeping times, confining of the resident shall only be for behavior management purposes.

Interpretation:

“Behavior management room” means a room used to confine a resident which can be locked, unlocked or unlock able.

“Confined” means not allowed to come out until staff says so.

The use of any room, including a bedroom, for confinement at other than normal sleeping times, means the room is a behavior management room. This applies whether the facility is secure or non-secure. The room must be approved for confinement prior to using the room in that manner.

Rule 618 specifically prohibits the use of a locked behavior management room in a residential group home for 6 or fewer residents.

The change of location of a behavior management room from one room to a different room requires new Department approval.

R 400.4152 Behavior management rooms; policies and procedures.

Rule 152. An institution approved to use a behavior management room shall establish and follow written policies and procedures specifying its use. The policy shall include, at a minimum, all the of the following provisions:

- (a) The room may only be used if a resident is out of control and is in danger of harming himself or herself or others.
- (b) The room shall be used only for the time needed to change the behavior compelling its use.
- (c) Not more than 1 resident shall be placed in a room at one time.
- (d) Staff shall observe the resident at intervals of 15 minutes or less and shall record the observation in a behavior management log.
- (e) The log shall include all of the following information:
 - (i) The name of the resident.
 - (ii) Time of each placement.
 - (iii) Name of staff person responsible for placement
 - (iv) Description of specific behavior requiring use of the room
 - (v) Time of each removal from the room.
- (f) For each instance in which a resident remains in the room for more than 2 hours, the log shall also contain hourly supervisory approval and the reasons for continued use.
- (g) When the behavior management room is used for more than 3 hours, there shall be administrative review above the level of the supervisor who approved the extended use. This review shall be completed and documented within 48 hours.

Interpretation:

The policy of the institution shall:

- Establish safeguards while the resident is confined to the room.
- Impose supervisory and administrative controls to manage the appropriate use of the room.
- The room may only be used if a resident is both out of control and in danger of harming self or others.

R 400.4160 Health services, policies and procedures.

Rule 160. An institution shall establish and follow written health service policies and procedures addressing all of the following:

- (a) Routine and emergency medical and dental care.
- (b) Health screening procedures.
- (c) Maintenance of health records.
- (d) Storage of medications.
- (e) Dispensing of medications.
- (f) Personnel authorized to dispense medications.

Interpretation:

“Routine” means that medical and dental care that is provided or arranged by staff of the institution for non-emergency care.

“Health screening” means the initial physical observation at intake.

“Storage” means the procedure to be followed for the control of drugs and medications, who is responsible for the control of such substances, and how access is managed.

Rule 400.4161 Medical treatment; supervision.

Rule 161. Medical treatment shall be under the supervision of a licensed physician.

Interpretation:

An institution shall demonstrate that they have an official working relationship with a licensed physician or clinic.

R 400.4163 Periodic physical examinations.

Rule 163. An institution shall provide and document periodic physical examinations for each resident as follows, unless greater frequency is medically indicated:

- (a) Every 3 months for residents under 1 year of age.
- (b) One a year for residents over age 1 and under 6 years of age.
- (c) Once every 2 years for residents 6 years of age or over.

Interpretation:

The medical professional completing the exam must complete documentation of periodic physical examination.

An RN, Nurse Practitioner or Physician's Assistant may complete a physical examination under the supervision of a licensed physician.

R400.4167 Reporting hospitalization or death of a resident

Rule 167 (1) Any serious injury or illness requiring hospitalization of a resident shall be reported to the parent and responsible referring agency as soon as possible, but not more than 24 hours later.

(2) The death of a resident shall be reported immediately to the parents or next of kin, the licensing authority, and referring agency.

Interpretation:

“Hospitalization” means serious enough to be taken to the hospital for evaluation regardless of whether the youth is admitted.

Documentation of hospitalization shall be maintained in the resident’s medical record.

A death shall be reported as soon as possible, but no later than 24 hours after the death occurs.

An institution shall have a methodology for reporting a death to the licensing authority.

“Licensing authority,” means the Division of Child Welfare Licensing.

R400.4168 Personal hygiene

Rule 168 An institution shall assure that each resident maintains or receives personal care, hygiene and grooming appropriate to the resident's age, sex, race, cultural background, and health needs.

Interpretation:

An organization must ensure that each resident's personal hygiene needs are met.

This rule includes but is not limited to: bathing, hair washing, combing and cutting, use of toiletries, cutting nails, use of makeup, and female hygiene needs.

Medical orders that result from the health needs of a resident shall be followed.

If a resident is unable to provide for their own care, it is the responsibility of the institution to ensure that the residents receive proper care.

R 400.4169 Resident nutrition

Rule 169 (1) A licensee shall provide a minimum of 3 nutritious meals daily unless medically contraindicated and documented.

(2) Meals shall meet the nutritional allowances recommended in the publication entitled, "Basic Nutrition Facts," PAGES 28-29, Michigan Department of Public Health publication no. H-809, 1980. The publication may be obtained without charge from Nutrition Services Bureau of Personal Health Services, Michigan Department of public Health, P.O. Box 30035, Lansing, Michigan 48909.

(3) Special diets shall be prescribed only by a physician. A resident who has been prescribed a special diet by a physician shall be provided such a diet.

(4) Menus shall be written prior to the serving of the meal. Any change or substitution shall be noted and considered as part of the original menu.

Interpretation:

Institutions are to meet, at a minimum, the requirements of the current "Basic Nutrition Facts".

R400.4170 Emergency and disaster procedures

Rule 170. An institution shall establish and follow written procedures for potential emergencies and disasters, including fire, severe weather, medical emergencies, and missing persons.

Interpretation:

Procedures must deal with care and supervision of residents during the emergency, and accounting for residents.

Additional areas of concern that may be addressed include; loss of potable water, loss of power, evacuation from a single building, evacuation from the entire site, accident or illness involving multiple residents, and hostage situations.

R 400.4172 Inspection and approval of institution.

Rule 172 An institution, including new construction, addition and conversion, shall be occupied by residents only after inspection and approval by the licensing authority.

Interpretation:

“ Inspection by” requires the licensing consultant to go onsite for direct observation prior to occupancy by residents.

“Approval by” means meets the requirements of all parts of the rules, including fire safety and environmental health, and can only be given by the licensing consultant.

Areas under construction must be protected from resident access.

Smoking Prohibition

1973 PA. 116 (The Child Care Organization Licensing Act) MCL 722.113b prohibits smoking anywhere on the property of child caring institutions. No one may smoke in any building or on any property of a child caring institution.

R 400.4173 Plans and specifications

Rule 173. (1) Plans and specifications shall be submitted to the licensing authority for review and approval prior to any remodeling in an institution or the construction or conversion of a structure for use as an institution.

(2) The plans shall comply with all of the following provisions:

- (a) Show layout, room arrangements, construction materials to be used, and the location, size, and type of fixed equipment.
- (b) For additions, show those portions, including existing exits, types of construction, and room occupancies, which may be affected by the addition.
- (c) Be approved in writing by the licensing authority, fire inspecting authority and the health inspecting authority before construction begins.
- (d) The plans for open institutions for not more than 6 residents need not be developed by an architect.

Interpretation:

Child welfare licensing is the primary licensing authority.

The Bureau of Construction Codes, and Fire Safety within Department of Labor and Economic Growth completes evaluation of plans for construction.

Environmental health plans are evaluated by the county/local health departments.

A final approval letter must be received from the Bureau of Construction Codes and Fire Safety and Environmental Health as well as an inspection by a qualified fire inspector (QFI) prior to the consultant approving a facility for occupancy.

R 400.4175 Space and equipment requirements.

Rule 175 An institution shall provide sufficient resident living space, office space, and equipment to assure delivery of licensed services.

Interpretation:

The layout of an institution is to be based on the types of residents and the focus and elements of the identified programs and services.

“Sufficient space” means enough space to afford reasonable comfort to each resident.

“Living space” means **all** those areas that would be use by a resident.

Equipment must be appropriate for the program and in sufficient quantity to allow for the program to operate.

“Licensed services,” means those programs that the institution says they provide and that are subject to these rules.

Rule 177 defines the minimum square footage for sleeping.

Rule 407 identifies requirements for the physical conditions of the facility.

R 400.4176 Recreational activities, equipment, and supplies; swimming restriction.

Rule 176. (1) Residents shall be provided a variety of indoor and outdoor recreational activities designed to meet the residents' needs.

(2) Appropriate recreation supplies and equipment shall be provided.

(3) Swimming shall be permitted only where and when a qualified lifeguard is on duty.

Interpretation:

Activities must be appropriate to each resident's age, abilities, and skills.

Equipment and supplies must be appropriate for the activities and in sufficient quantities to allow the plan to be carried out.

Residents that are taken to off site activities remain under the supervision and are still the responsibility of the institution.

Qualified lifeguard is an adult who:

- Has authority and responsibility to enforce rules pertaining to safety while swimming.
- Functions as a lifeguard and not as a direct care staff person.
- Is certified as a lifeguard for the specific type of swimming site: basic lifeguard for pools, lifeguard plus waterfront and head lifeguard for any open water setting.

Rule 435 identifies the requirements for on-site swimming beaches and pools.

If an organization has high adventure activities such as a high ropes course, that activity should be certified by a national organization that certifies high adventure activities. The certification should be current and available for the consultant to review.

R 400.4177 Sleeping rooms.

Rule 177 (1) In new and converted institutions, single sleeping rooms shall not be less than 70 square feet, exclusive of closet space.

(2) In new and converted institutions, multi-resident sleeping rooms shall not be less than 45 square feet per resident, exclusive of closet space.

(3) Residents of the opposite sex over 5 years of age shall not sleep in the same sleeping room.

(4) In new or converted secure institutions, locked resident sleeping rooms shall be equipped with a 2-way monitoring device.

Interpretation:

For institutions licensed prior to November 15, 1983, there is no required minimum square footage per resident. Any changes in operating conditions after 11-15-83 requires that the institution be in compliance with all parts of this rule.

Measurements of space need only be done at original licensure and at any other time when the use of space changes or the facility is modified.

“2-way monitoring device” means a method is in place that allows for continuous sight or hearing contact between the resident and staff.

Over 5 years of age means 5 years and 1 day.

R 400.4178 Bedding and linen.

Rule 178. (1) Each resident shall be provided with an individual bed with a clean mattress and sufficient clean blankets.

(2) Each resident shall be provided with clean sheets and a pillow case at least weekly and more often if soiled.

Interpretation:

No resident shall be allowed to share a bed with anyone.

“Bedding”, means the bed, mattress, mattress cover, sheets, blankets, pillow, and pillow case of each resident. A mattress on the floor does not constitute a bed.

All bedding must be maintained in a clean and serviceable manner.

R 400.4181 Driver license.

Rule 181 The driver of any vehicle transporting residents at the request of or on behalf of the licensee shall be an adult and possess a valid operator or chauffeur license with endorsement appropriate to the vehicle driven and the circumstances of its use.

Interpretation:

An organization must have documentation that driver's licenses and endorsements are current.

A valid operator's license is required for an individual who is assisting with transportation even when the person is not assigned the task as part of a job description.

A person whose job description calls for transporting residents must possess a chauffeur's license.

A vehicle capable of transporting more than 15 individuals requires a CDL endorsement.

If the organization has a school bus for transporting residents, an "S" endorsement is required.

R 400.4182 Seat occupancy.

Rule 182. Each resident transported shall occupy a manufacturer's designated seat.

No resident may be transported in any portion of any vehicle not specifically designed by the manufacturer for passenger transportation. This includes the bed of a pick-up truck or a trailer of any kind.

Infants and young children require the use of child safety seats as required by state law.

R 400.4183 Safety belts.

Rule 183. In a vehicle which is required to by law to be equipped with passenger safety belts, the driver and all passengers shall be properly restrained while the vehicle is in motion.

Interpretation:

Each individual must have and use their own safety belt or restraint device.

R 400.4201 Applicability

Rule 201. The rules in this part apply to all short-term institutions unless specifically noted otherwise.

Interpretation:

This rule identifies which type of institution this section of rules applies to:

Rule 101 (t) defines "Short-term institution" as an institution which primarily provides care for residents pending court action or other placement planning as opposed to primarily providing habilitative or rehabilitative services.

No length of time as related to length of institutional care is contained in this rule.

A short-term institution may operate with a social services worker, on staff or under contract, if the care provided is for less than 7 days. Rule 234 requires a plan within 7 days, and the definition of a "social services worker" gives the responsibility for such plans to that person.

An organization may operate both a short-term and a residential treatment institution at the same site under one license. Such an organization must meet the requirements of the applicable rules. The capacity of each program is to be indicated on all original and renewal applications.

An institution is neither in nor out of compliance with this specific rule.

R 400.4231 Residential care after 48 hours.

Rule 231. A short-term institution shall continue to provide care for a resident beyond 48 hours only after establishing that the institution is an appropriate placement for the resident.

Interpretation:

Tie-bar to Rule 109, Program statement.

Rule 400.4232 Admission physical examination.

Rule 232. A short-term institution shall have documentation of an admission physical examination for each resident as follows, unless greater frequency is medically indicated:

- (a) For a resident under 3 years of age, a physical examination shall have been completed within 3 months prior to admission or a new physical examination shall be completed within 7 days after admission.
- (b) For resident 3 years of age or over, a physical examination shall have been completed within 1 year prior to admission or a new physical examination shall be completed within 7 days after admission.

Definitions:

“Physical examination” means an assessment by a licensed medical professional.

“Medically indicated” means as directed by a physician or other health professional or is known to engage in high-risk behavior, such as: Substance abuse, sexual activity, living in an unsupervised setting, youth enters care with known medical problems, ect.

Interpretation:

An examination may be completed by any person authorized by and under the supervision of a licensed physician. Such a person may be an RN, physician assistant, or nurse practitioner.

Tie-bar to Rule 163 Periodic examination.

Rule 400.4234 Preliminary service plan.

Rule 234. A brief plan shall be developed within 7 calendar days of admission for each resident. The plan shall include both of the following:

- (a) An assessment of the resident's immediate and specific needs.
- (b) The specific services to be provided by the institution and other resources to meet the needs.

Interpretation:

A plan of care must be in the record for each child by the seventh day of care.

A plan can be "brief", but must be specific to the child and include an assessment of the child's needs.

Assessment and service plan is to be prepared by a person who meets the qualifications of a social services worker. The person does not have to be a full time staff member of the institution.

R 400.4237 Resident assessment.

Rule 237. (1) A written resident assessment shall be completed 30 days after admission and every 15 days thereafter. The assessment shall include all of the following:

- (a) The reasons for continued care.
 - (b) Plans for other placement.
 - (c) Barriers to other placement and plans to eliminate the barriers.
- (2) Copies of the plan shall be maintained at the institution.

Interpretation:

A written assessment must be completed within 30 days after admission and every 15 days following the 30-day assessment plan.

Copies of assessments shall be maintained for any child in care from one licensing investigation until the next licensing investigation.

Assessment and service plan is to be prepared by a person who meets the qualifications of a social services worker. The person does not have to be a full time staff member of the institution.

R 400.4238 Discharge plan.

Rule 238. (1) When a resident is discharged, all of the following shall be documented:

- (a) The reason for discharge.
- (b) New location of the child.
- (c) A brief summary or other documentation of medical and dental services provided while in residence.
- (d) The name and official title of the person to whom the resident was released.

(2) For an unplanned discharge, there shall be a brief summary or other documentation of the circumstances surrounding the discharge.

Interpretation:

Discharge documentation is to be completed on the day that the resident is discharged.

R 400.4302 Applicability

Rule 302. The rules in this part apply to all residential treatment child caring institution unless specifically noted otherwise.

Interpretation:

This rule identifies which type of institutions this section of rules applies to:

Rule 101 (r) defines “Residential treatment institution” as an institution whose primary purpose and function is to provide habilitative or rehabilitative services.

An organization may operate both a short-term institution and a residential treatment institution at the same site under one license. Such an organization must meet the requirements of all applicable rules. The capacity of each program is to be indicated on all original and renewal applications.

R 400.4331 Admission of child.

Rule 331. A child shall be admitted only after establishing that the institution is an appropriate placement to meet the child's needs.

Interpretation:

An assessment of the child's needs in relationship to the institution's program statement and services shall be completed prior to admission.

Tie –bar to Rule 109, Program statement.

R 400.4332 Admission physical examination.

Rule 332. (1) An institution shall have documentation of an admission physical examination for each resident as follows, unless greater frequency is medically indicated:

- (a) For a resident under 1 year of age, a physical examination shall have been completed within 3 months prior to admission or a new physical examination shall be required within 30 days after admission.
- (b) For a resident 1 year of age or over, a physical examination shall have been completed within 1 year prior to admission or a new physical examination completed within 30 days after admission.

(2) Sufficient health history information shall be documented for each resident to assure proper medical care.

Definitions:

“Physical examination” means an assessment by a licensed medical professional.

“Medically indicated” means as directed by a physician or other health professional or is known to engage in high-risk behavior, such as: Substance abuse, sexual activity, living in an unsupervised setting, youth enters care with known medical problems, ect.

Interpretation:

Any person authorized by and under the supervision of a licensed physician may complete an examination. Such a person may be an RN, physician assistant, or nurse practitioner.

Tie-bar to Rule 163 Periodic examination.

R 400.2334 Immunizations.

Rule 334. (1) A resident shall have current immunizations as required by the department of public health.

(2) If documentation of immunizations is unavailable, immunizations shall begin within 30 days of admission, unless a statement from a physician indicating that immunizations are contraindicated is included in the resident's record.

(3) A statement from a physician, referring agency, parent or guardian indicating immunizations are current is sufficient documentation of immunizations.

Interpretation:

The Department of Community Health publishes the current schedule for immunization.

MCL 722.127 states that nothing in these rules adopted pursuant to this act shall authorize or require immunizations for any child whose parent objects on religious grounds. The objection must be in writing.

R 400.4335 Dental care.

Rule 335. A licensee shall arrange for the provisions of and shall document dental examination and treatment for each resident 3 years of age and older. A dental examination within 12 months prior to admission shall be documented or there shall be an examination not later than 3 months following admission. Reexamination shall be provided at least annually.

Rule 400.4336 Initial service plan.

Rule 336. (1) An initial service plan shall be completed by the social services worker for each resident within 30 days of admission.

(2) The initial service plan shall be developed with the resident, the resident's parents, and the referral source, unless documented as inappropriate.

(3) The initial service plan for each resident and family shall comply with all of the following provisions:

- (a) Assess the resident's and family's strengths and weaknesses in the areas of education, economics, psychology, society, and health, as these relate to the resident's needs.
- (b) Identify plans for parent and child visitation.
- (c) Specify treatment goals to remedy the problems of the resident and family and time frames for achieving the goals.
- (d) Identify the indicators of goal achievement.
- (e) Specify the persons responsible for coordinating and implementing the resident and family treatment goals.
- (f) Specify staff techniques for achieving the resident's treatment goals.
- (g) Specify the projected length of stay and next placement.

Interpretation:

The intent of this rule is to assure that children in care are evaluated and receive the appropriate services to meet their needs.

R 400.4337 Updated service plan.

Rule 337. (1) An updated service plan shall be completed and recorded by the social services worker for each resident at least once every 3 months following the initial service plan.

(2) The updated service plan shall include the following information:

- (a) Progress made toward achieving the goals established in the previous service plan.
- (b) Any changes in the service plan, including new problems and new goals to remedy the problems. Indicators of goals and time frames for achievement shall be specified.

Interpretation:

The intent of this rule is to assure that children in care are continually assessed so that the appropriate services are provided.

An updated service plan should be completed no more than 3 months following the completion of the previous updated services plan.

R 400.4338 Content of discharge service plan.

Rule 338. When a resident is discharged from institutional care, all of the following information shall be documented in the case record within 14 days after discharge:

- (a) The reason for discharge and the new location of the child.
- (b) An assessment of the resident's needs which remain to be met.
- (c) A statement that the discharge plan recommendations have been reviewed with the resident and parent.
- (d) The name and official title of the person to whom the resident was discharged.

Interpretation:

All of the required elements must be in the child record, however, the elements do not have to be contained in a single document.