

Michigan

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Licensure Term Home for the Aged; Adult Foster Care

Opening Statement The Department of Licensing and Regulatory Affairs provides licensing and regulation of homes for the aged (HFA) and adult foster care (AFC). In general, an HFA provides care to persons who are over the age of 55, while an AFC home can provide care to any adult in need of AFC service. All licensed settings must comply with minimum standards (statutes and administrative rules) that establish an acceptable level of care. The term assisted living is used, but it is not recognized in the rules or statute.

Legislative and Regulatory Update In 2018, several legislative bills were signed into law which changed the Adult Foster Care Facility Licensing Act. These bills were assigned Public Act 388, 557, and 558 when signed into law.

Public Act 388 of 2018 became effective March 19, 2019 and revises the definition of adult foster care facility to allow a facility to be dually licensed as an AFC and Substance Use Disorder (SUD) program if the facility is approved as a co-occurring enhanced crisis residential program by the Michigan Department of Health and Human Services (MDHHS).

Public Acts 557 and 558 of 2018 both took effect on March 28, 2019 and provide the following:

(1) An AFC license is not required for a private residence with a capacity of not more than 4 adults who all receive benefits from a community mental health services program and the local community mental health services program monitors the services being delivered in that residential setting.

(2) Revises the definition of an AFC Family Home capacity to at least 3 but not more than 6 residents. After March 28, 2019, applications

with a capacity of 1 or 2 residents are no longer accepted.

(3) Revises the definition of an AFC Small Group Home capacity to at least 3 but not more than 12 residents. After March 28, 2019, applications for a new AFC with a capacity of 1 or 2 residents will no longer accepted.

(4) Revises license application and renewal fees.

(5) Provides clarification on the definition of licensee designee.

(6) Creates new provisions on renewal and approval or denial of an application.

(7) Requires the licensee to pay for staff background checks starting July 1, 2020.

(8) The standard of review for circuit court, following appeal of a decision by the MDHHS director, has been changed to a judicial review.

(9) The process for review of a complainant's disagreement with the initial findings of a LARA investigation has been changed to a LARA administrative review.

Definition

HFA: A supervised personal care facility, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility, that provides room, board, and supervised personal care to 21 or more unrelated, non-transient individuals who are 55 years of age or older. Home for the aged includes a supervised personal care facility for 20 or fewer individuals 55 years of age or older if the facility is operated in conjunction with and as a distinct part of a licensed nursing home.

AFC: Residential settings that provide personal care, supervision, and protection, in addition to room and board to 20 or fewer unrelated persons who are aged, mentally ill, developmentally disabled, or physically disabled for 24 hours a day, five or more days a week and for two or more consecutive weeks for compensation.

Disclosure Items

None specified. See "Unit and Staffing Requirements for Serving Persons with Dementia" section below.

Facility Scope of Care

HFA: Required to provide room, board, and supervised personal care consistent with the resident's service plan.

AFC: Required to provide room, board, supervision, protection, and personal care in accordance with the individual's written assessment plan and include, but are not limited to, medication administration, social activities, and assistance with activities of daily living.

Third Party Scope of Care

If a hospice or other outside agency cares for a resident in either a HFA or AFC, it must be available to assess, plan, monitor, direct, and evaluate the resident's care in conjunction with the resident's physician and in cooperation with the facility. Adequate and appropriate care must be provided.

Admission and Retention Policy

HFA: A home may not admit an individual whose needs cannot be adequately and appropriately met within the scope of the home's program statement or who is in need of continuous nursing care of the kind normally provided in a nursing home. At admission, a written resident admission contract and a resident service plan is required. A service plan is completed by the home in cooperation with the individual or the individual's authorized representative identifying the individual's specific needs for care, maintenance, services, and activities. Evidence of tuberculosis screening within the 12 months before admission and, if the individual is under a physician's care, a written health care statement are required.

A resident must be discharged if the resident has harmed self or others, or whose behaviors pose a risk of serious harm to self or others unless the home can effectively manage those behaviors. A resident who needs continuous nursing care may not remain in the home unless the resident's family, physician, and the facility consent to the resident's continued stay and agree to cooperate in providing the needed level of care and the necessary additional services or the resident is receiving services from a licensed hospice program or home health agency. A HFA resident may be transferred or discharged only for: (1) medical reasons, (2) for his or her welfare or that of other residents, (3) for non-payment of his or her stay, or (4) if transfer or discharge is sought by the resident or resident's authorized representative. A home must provide a resident and his or her authorized representative with a written notice stating the reasons and specifics of the discharge 30 days before discharge. A home may discharge a resident before the 30-day notice if the home has determined and documented that either or both of the following exists:

(1) Substantial risk to the resident due to the inability of the home to assure the safety and well-being of the resident, other residents, visitors, or staff of the home.

(2) A substantial risk or occurrence of the destruction of property.

AFC: A licensee shall not accept, retain, or care for a resident who requires continuous nursing care. This does not preclude the accommodation of a resident who becomes temporarily ill while in the home but who does not require continuous nursing care, or accommodation of a person who is a hospice patient. Prior to move in, the licensee must complete a written assessment of the resident and determine that: a) the amount of personal care, supervision, and protection that is required by the resident is available in the home; b) the kinds of services, skills, and physical accommodations that the resident requires are available in the home; and c) the resident appears to be compatible with other residents and members of the household.

A licensee must provide a resident and his or her designated representative with a 30-day written notice, stating the reasons for discharge, before discharge from the home. A licensee may discharge a resident before the 30-day notice when the licensee has determined and documented that substantial risk or an occurrence of any of the following: self-destructive behavior, serious physical assault, or the destruction of property.

Resident Assessment

HFAs and AFCs are both required to complete an assessment and a service plan at the time of admission; however, a particular form is not required to be used. An optional AFC form found on the department's website is available for use in developing a service plan for AFCs. There is no equivalent form available for optional use in HFAs. Service plans are to be updated at least annually or whenever there is a significant change in the resident's care needs.

Medication Management

A licensee, with a resident's cooperation, shall follow the instructions and recommendations of a resident's physician or other health care professional with regard to medication. The HFA and AFC rules contain additional requirements governing administration of medications.

Square Feet Requirements

HFA: A single resident room must be a minimum of 80 square feet of usable space and 100 square feet for new construction. Multiple-bed resident rooms must provide a minimum of 70 square feet per bed of usable floor space and 80 square feet for new construction. The HFA administrative rules include additional physical plant requirements. New construction requirements apply to buildings built after November 14, 1969.

AFC: A bedroom must have at least 65 square feet of usable floor

Residents Allowed Per Room	<p>space per bed.</p> <p>HFA: For new construction, a maximum of four beds are allowed per bedroom.</p> <p>AFC: A maximum of four beds are allowed per bedroom unless the facility has been continuously licensed since April 1994.</p>
Bathroom Requirements	<p>HFA: A minimum of one lavatory and water closet is required for every eight resident beds per floor. A bathing facility shall be provided for every 15 residents. Employees shall have adequate toilet facilities separate from resident living quarters.</p> <p>AFC: There shall be a minimum of one toilet, one lavatory, and one bathing facility for every eight occupants of the home. At least one toilet, one lavatory, and one bathing facility available for resident use shall be provided on each floor that has resident bedrooms.</p>
Life Safety	<p>HFA: Design and construction of such facilities shall be in compliance with state fire safety rules for health care facilities. The fire safety rules are administered and enforced by the Michigan Department of Licensing and Regulatory Affairs, Bureau of Fire Services. Facilities that were in operation prior to February 11, 2018 and continuously in operation up to application for licensure, may apply for a license and choose to be reviewed and inspected to comply with the provisions of chapter 18 and 19 or chapter 32 or 33 of the National Fire Protection Association standard number 101.</p> <p>AFC: Fire safety for homes licensed for seven or more residents is regulated by the Michigan Department of Licensing and Regulatory Affairs, Bureau of Fire Services. For new construction, the homes must have sprinklers and a fire alarm system that includes a hard-wired, interconnected smoke detection system. Fire safety for homes of six or fewer residents are regulated by the Michigan Department of Licensing and Regulatory Affairs. For new construction, homes must have a hard-wired, interconnected smoke detection system.</p>
Unit and Staffing Requirements for Serving Persons with Dementia	<p>If facilities advertise or market themselves as providing specialized Alzheimer's or dementia care, prospective residents, residents, or surrogate decision makers must be provided with a written description of the care and services provided. (See, for HFAs: MCL 333.20178 and for AFCs: MCL 400.726(b).) The written description shall include, but not be limited to, all of the following:</p> <p>(1) The overall philosophy and mission reflecting the needs of patients or residents with Alzheimer's disease or a related condition.</p>

- (2) The process and criteria for placement in or transfer or discharge from a program for patients or residents with Alzheimer's disease or a related condition.
- (3) The process used for assessment and establishment of a plan of care and its implementation.
- (4) Staff training and continuing education practices.
- (5) The physical environment and design features appropriate to support the function of patients or residents with Alzheimer's disease or a related condition.
- (6) The frequency and types of activities for patients or residents with Alzheimer's disease or a related condition.
- (7) Identification of supplemental fees for services provided to patients or residents with Alzheimer's disease or a related condition.

Although there are no specific training requirements related to dementia, direct care staff must be trained and competent to meet the needs of all residents in care. (See MCL 325.1931 (1-7) for HFAs and MCL 400.14204 (1-3) for AFCs.)

Staffing Requirements

HFA: While there are no specific staffing ratio requirements in administrative rule, homes must have an adequate and sufficient number of staff who are awake, fully dressed, and capable of providing for resident needs on duty at all times, and to meet the needs of the residents based on the resident service plans. The home shall also designate one person on each shift to be supervisor of resident care.

The supervisor of resident care shall be on the premises and is to supervise resident care, assure that residents are treated with kindness and respect, protect residents from accidents and injuries, and be responsible for the safety of residents in case of emergency.

AFC: Must have direct care staff on duty at all times and staffing shall be adequate to provide the supervision, personal care, and protection of residents and to provide the services specified in the resident's care agreement and assessment plan. Regulations specify ratios depending on the size of the AFC home. For large group homes, the ratio of direct care staff to residents shall be adequate as determined by the department, to carry out the responsibilities

defined in the act and in these rules and shall not be less than 1 direct care staff to 15 residents during waking hours or less than 1 direct care staff member to 20 residents during normal sleeping hours.

AFC and HFA employees are required to have background checks completed including fingerprinting for criminal record clearance.

**Administrator
Education/Training**

HFA: Administrators must be capable of assuring program planning, development, and implementation of services to residents consistent with the home's program statement and in accordance with resident service plans and agreements; be at least 18 years of age; and have education, training, and/or experience related to the population served by the home.

AFC: Administrators must have a high school diploma or general education diploma or equivalent, and at least one year of experience working with the population identified in the home's program statement and admission policy. The administrator must also be competent in the areas of nutrition, first aid, CPR, the adult foster care act, safety and fire prevention, financial and administrative management, knowledge of the needs of the population to be served, resident rights, and prevention and containment of communicable disease.

Staff Education/Training

HFA: Management must establish and implement a staff training program based on the home's program statement, the residents' service plans, and the needs of employees, such as reporting requirements and documentation, first aid and/or medication, personal care, resident rights and responsibilities, safety and fire prevention, containment of infectious disease and standard precautions, and medication administration (if applicable).

AFC: Direct care staff must be at least 18 years of age and able to complete required reports and follow written and oral instructions related to the care and supervision of residents. All staff must be suitable to meet the physical, emotional, intellectual, and social needs of each resident and be capable of appropriately handling emergency situations. Direct care staff must be competent in the following areas before performing assigned tasks: reporting requirements, first aid, CPR, personal care, supervision, protection, resident rights, safety and fire prevention, and prevention and containment of communicable diseases. Staff must be trained in the administration of medication before performing that duty.

Regulations specify additional training that is required for facilities

that are certified to provide a specialized program for persons with developmental disabilities or mental illness.

AFC: Both the licensee and the administrator must annually complete either 16 hours of training approved by the Department of Licensing and Regulatory Affairs that is relevant to the licensee's admission policy and program statement or six credit hours at an accredited college or university in an area that is relevant to the licensee's admission policy and program statement as approved by the Department.

**Entity Approving
CE Program**

HFA: None specified.

AFC: The Department of Licensing and Regulatory Affairs approves training for Certification of Specialized Services and the 16 hours of required annual training for adult foster care licensees and administrators.

**Medicaid Policy and
Reimbursement**

In licensed facilities, the Medicaid state plan may cover personal care services provided in HFAs and AFCs in some circumstances.

The MI Choice Medicaid 1915(c) Waiver program is available to prospective and current HFA and AFC residents. This program supports individuals at risk of nursing home placement or transitioning from a nursing home. In a licensed setting, this program can provide supports and services to an eligible individual that are in addition to the usual and customary care required of a licensed home, but does not provide continuous nursing care.

Citations

Adult Foster Care and Homes for the Aged Licensing Division, Department of Licensing and Regulatory Affairs: Michigan Administrative Code from the Bureau of Community and Health Systems

https://dtmb.state.mi.us/DTMBORR/AdminCode.aspx?AdminCode=Department&Dpt=LR&Level_1=Bureau+of+Community+and+Health+Systems

Adult Foster Care Facility Licensing Act, Act 218 of 1979 [2019]
[http://www.legislature.mi.gov/\(S\(w0by5kbj4pl4l03xtuzf\)\)/documents/mcl/pdf/mcl-Act-218-of-1979.pdf](http://www.legislature.mi.gov/(S(w0by5kbj4pl4l03xtuzf))/documents/mcl/pdf/mcl-Act-218-of-1979.pdf)

Michigan Public Health Code (Home for the Aged: Parts 201 and 213) [2018]
[http://www.legislature.mi.gov/\(S\(qqagkswgpcts4ny3fwepeynk\)\)/documents/mcl/pdf/mcl-368-1978-17.pdf](http://www.legislature.mi.gov/(S(qqagkswgpcts4ny3fwepeynk))/documents/mcl/pdf/mcl-368-1978-17.pdf)

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