

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

***** 400.722.amended THIS AMENDED SECTION IS EFFECTIVE MARCH 28, 2019 *****

400.722.amended Denying, suspending, revoking, refusing to renew, or modifying license; grounds; written notice; hearing; decision; protest; receiving or maintaining adults requiring foster care as felony; penalty; relocation services.

Sec. 22. (1) The department may deny, suspend, revoke, or refuse to renew a license, or modify a regular license to a provisional license, if the licensee falsifies information on the application for license or willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license.

(2) The department may deny, suspend, revoke, or modify an application for licensure or a license of a licensee if the department determines that the applicant or licensee has a relationship with a former applicant whose application under this act has been denied or a former licensee whose license under this act has been suspended, revoked, or refused renewal under this section or section 13(9) or a convicted person to whom a license has been denied under section 13(9). This subsection applies for 10 years after the suspension, revocation, or refused renewal of the former licensee's license, the denial of the former applicant's application for licensure, or the denial of the convicted person's application for licensure. As used in this subsection, an applicant has a relationship with a former licensee or convicted person if the former applicant, licensee, or convicted person is involved with the facility in 1 or more of the following ways:

- (a) Participates in the administration or operation of the facility.
- (b) Has a financial interest in the operation of the facility.
- (c) Provides care to residents of the facility.
- (d) Has contact with residents or staff on the premises of the facility.
- (e) Is employed by the facility.
- (f) Resides in the facility.

(3) The department may deny an application for licensure based on a prior settlement agreement that prohibits a person from providing adult foster care.

(4) An application for licensure shall not be denied, a license shall not be revoked, a renewal shall not be refused, and a regular license shall not be modified to a provisional license unless the department gives the applicant or licensee written notice of the grounds for the proposed denial, revocation, refusal to renew, or modification. If the proposed denial, revocation, refusal to renew, or modification is not appealed within 30 days after receipt, the department shall deny, revoke, refuse to renew, or modify the application or license. The applicant or licensee must appeal in writing to the department director, or the director's designee, a proposed denial, revocation, refusal to renew, or modification within 30 days after receipt of the written notice. Upon receipt of the written request for appeal, the director or the director's designee must conduct a contested case hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.328. Notice of the hearing must be given to the applicant or licensee by personal service or delivery to the proper address by registered mail not less than 2 weeks before the date of the hearing. The decision of the director or his or her designee shall be issued as soon as practicable after the hearing and forwarded to the protesting party by registered mail. The formal notice and hearing requirement in this subsection does not apply if the licensee and the department comply with section 22a.

(5) A license shall not be denied, suspended, or revoked, a renewal shall not be refused, and a regular license shall not be modified to a provisional license unless the department gives the licensee or applicant written notice of the grounds of the proposed denial, revocation, refusal to renew, or modification. If the licensee or applicant appeals the denial, revocation, refusal to renew, or modification by filing a written appeal with the director within 30 days after receipt of the written notice, the director or the director's designated representative shall conduct a contested case hearing at which the licensee or applicant may present testimony and confront witnesses. Notice of the hearing shall be given to the licensee or applicant by personal service or delivery to the proper address by registered mail not less than 2 weeks before the date of the hearing. The decision of the director shall be made and forwarded to the protesting party by registered mail not more than 30 days after the hearing. If the proposed denial, revocation, refusal to renew, or modification is not protested within 30 days, the license shall be denied, revoked, refused, or modified.

(6) If the department has revoked, suspended, or refused to renew a license, the former licensee shall not receive or maintain in that facility an adult who requires foster care. A person who violates this subsection is guilty of a felony, punishable by imprisonment for not more than 5 years or a fine of not more than \$75,000.00, or both.

(7) If the department has revoked, suspended, or refused to renew a license, relocation services shall be

provided to adults who were being served by the formerly licensed facility, upon the department's determination that the adult or his or her designated representative is unable to relocate the adult in another facility without assistance. The relocation services shall be provided by the responsible agency, as defined in administrative rules, or, if the adult has no agency designated as responsible, by the department of health and human services.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1990, Act 262, Eff. Mar. 28, 1991;—Am. 1994, Act 150, Imd. Eff. June 7, 1994;—Am. 2004, Act 59, Eff. Aug. 1, 2004;—Am. 2018, Act 557, Eff. Mar. 28, 2019.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties pertaining to adult foster care, adult foster care facility, adult foster care camp, adult camp, adult foster care family home, and adult foster care group home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.

For transfer of powers and duties pertaining to children's camp, child care center, day care center, family day care home, and group day care home licensing and regulation from department of human services to department of licensing and regulatory affairs, see E.R.O. No. 2015-1, compiled at MCL 400.227.