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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Children and Families (AC-CF)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)

Assembly

Record of Committee Proceedings

Committee on Children and Families

Clearinghouse Rule 03-052

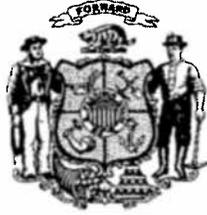
Relating to family and group child care centers.
Department of Health and Family Services

July 15, 2004 Referred to Committee on Children and Families.

August 16, 2004 No action taken.

David Matzen
Committee Clerk





STATE REPRESENTATIVE

STEVE KESTELL

27TH ASSEMBLY DISTRICT

TO: Members of the Children and Families Committee

Representative Ladwig
Representative Albers
Representative Jeskewitz
Representative Vukmir

Representative Miller
Representative Sinicki
Representative Toles

FROM: Representative Steve Kestell, Chair

DATE: July 15, 2004

RE: Clearinghouse Rule 03-052

On July 15, 2004 the following clearinghouse rule, submitted by the Department of Health and Family Services, was referred to the Assembly Children and Families Committee:

Clearinghouse Rule 03-052, relating to a variety of changes to HFS 45, family child care centers, and HFS 46, group child care centers. Through these final proposed changes, the Department believes that it is contributing to the statutory goal of protecting and promoting the health, safety, and welfare of the children in the care of all licensees. The Department held two public hearings on CR 03-052 last summer that were attended by 104 people. A fiscal estimate prepared by DHFS states that CR 03-052 would have no state fiscal effect and would not increase local government costs. Licensing rules for child care centers are currently in effect. The revisions proposed will not effect state operations regarding the licensure of these programs or the responsibilities of DHFS staff in licensing, investigating, or monitoring these programs.

The deadline for committee action on this rule is **August 16, 2004**. If you are interested in obtaining a hard copy of the rule or requesting a hearing, please do so prior to the deadline date. This rule can also be accessed online in FOLIO under the "Clearinghouse Rules" InfoBase.

A handwritten signature in black ink that reads "Steve Kestell". The signature is written in a cursive style with a large, looping initial "S".

Steve Kestell
Chair, Assembly Committee on Children and Families





School District of New Holstein

1715 Plymouth Street
New Holstein, WI 53061-1292

(920) 898-3005

Joe Wieser, District Administrator

E-mail: jwieser@nhsd.k12.wi.us

Fax: (920) 898-4112

July 26, 2004

State Representative Steve Kestell
Wisconsin State Capitol
P.O. Box 8952
Madison, WI 53708

(E-mailed - original to follow)

Dear Representative Kestell,

I am extremely disappointed by the last minutes tactics of my party.

The party and leadership are making it difficult for me to continue to campaign for and support state Republican Party officeholders and candidates.

I fully understand why Senator Panzer was forced to call for the extraordinary session.

I know that you are aware that controversial budget policy does not belong in the constitution. I also know that you have said in the past that there would be public hearings before a vote. I believe that constitutional amendment deserves public hearings and public input.

I will phone later this week to ask if you are supporting the proposed legislation ... **whatever it will be** --- since my party has not shared their proposed legislation.

Respectfully submitted,

Joe Wieser, District Administrator, School District of New Holstein

NEW GROUP CHILD CARE CENTER RULES

Helene Nelson (drafted by)

Wisconsin Department of Health and Family Services

Rule questions and concerns from:

Robert Schuelke, Program Administrator (home address – 1711 Rempe Drive, Waukesha 53186)

Sandra Schuelke, Program Director, Owner-Operator (home address – 16655 Willow Ridge Ln
Brookfield, 53005)

Children's Learning Center, Inc. (childcare and preschool)

21005 Gumina Road

Pewaukee, WI 53072

As administrators of a preschool and childcare program that has operated in the Brookfield-Waukesha-Pewaukee area for thirty (30) years, we have concerns with the following rules:

Page 45 HFS 46.03 (8m) Course for credit “means a course that is worth at least 2 credits from an institution of Higher education.”

What is the rationale for a minimum requirement of 2 credits as counting toward continuing education? UW-Milwaukee offers many 1 credit courses that some of our teachers use to renew their teaching licenses. A one credit course is still 16 hours of college credit, and most of the time is much more intensive than non-credit courses that are acceptable by the State.

P. 46 (10m) “Emergency” Why is “no heat” listed, but loss of air conditioning is not? Why would extreme outdoor heat or cold be an emergency to a center? We would be inside with conditioned air or heat and would not have to worry about temperatures outside.

For “family situations,” without precise wording there are a thousand different scenarios that could constitute an emergency. Are centers going to be allowed to have a broad contingency plan for this emergency, as it will be impossible to define exactly what may constitute a “family situation?” This is poorly written.

P. 47 HFS 46.03 (30) states that “while awake and asleep ... child care workers who are within sight and sound...”

P. 57 states that “one child care worker shall be within sight or sound of each group of sleeping children.”

These two statements must be consistent, or either may be used to cite centers. P. 47 must be changed to read “within sight **OR** sound of sleeping children.”

P. 48 HFS 46.04 (3)(h) “Change in room...”

What does this mean? If we want to use a room for threes, or fives, or school age, why does the department need to know? None of the rules are different for these age groups. Should this be defined by stating a room used for children under two? As it is worded, if we want to use a room for a center party, a magic show, etc. we would have to notify the department every time. This

would result in not only unrealistic expectations and paperwork for a Center, but would never allow inspectors time away from their phones!

P. 49 (i) Some clarification is needed. If a child leaves the premises, definitely report that to the state. However, if a child hides in a room and we enact a missing child policy by searching all equipment, cabinets, etc, and the child is found hiding, do we need to report that to the state? This would result in excessive paperwork for centers and licensors.

P. 49 (k) Needs to be re-defined entirely. "Any incident" is everything. We had an incident where the phone in our wheelchair lift "called" 911 due a short in the wiring, and we had the police here. That does not need to be reported to the State. The specific incidents that should be reported needs definition.

P. 49 (L) What does "any construction or remodeling" mean? Does it mean adding cubbies to a wall or painting, or adding blinds? As it's worded, such things supposedly "affect" the premises. This item needs clarification.

P. 49 #3 Background checks: Why is the State allowing 60 days for a check to be done? The idea was to become safer – but now a teacher can work an entire two months before having a complete background check? Online background checks take no more than two days, and mailing them should never take more than 30 days. This law does not need to be changed.

P. 49 "Prior to" should be changed to "by or on the first day" of attendance. If a child starts on a Monday and the parent does not bring in a form by that Friday, with the word "prior" it technically is a violation. If students change centers or start on short notice, this may be unrealistic for a parent to have the forms on file at the "new" Center "prior" to the start date.

P. 55 (b) On what basis does the department have the right to request an examination? This could be construed as an infringement on personal rights. It is the department's place to recommend that a Center ask employees to visit a doctor for an examination, and it is the Center's responsibility to ensure that the workers are competent. It is the Center's insurance that handles any risk and "covers" the staff, not the State. Allowing the department to "require" an examination of staff will open a veritable can of worms. Worst case scenario: a licensor does not get along with an owner or employee, and mandates an examination. We do not feel it is the place of an inspector to do so.

P. 56 # 6 CPR - This rule as designed is unrealistic. With a staff of 20+, it is not realistic to expect a staff member to be trained within six months. We rotate our staff members to be trained, about half one year, and the other half the following year. With the law as stated, we would have to have an in-house trainer to do CPR training. More realistic would be wording that states a Center should have a minimum number of staff members trained in first aide and CPR at the Center at all times, and have all staff members trained within 12 months.

P. 57 (h) Smoking - What does "premises" mean? This is a vague statement. Why will the state allow smoking when children are not present? If you have a crew working in the building on a weekend, and there is smoking, you will notice it on Monday. Plus, child care centers do

not have receptacles for used cigarettes, the odor lingers, and there is a fire danger. We prefer that child care centers be completely smoke free at all times. If there are situations where there is a conflict with other businesses (such as in a strip mall), could it be worded that free standing Centers are totally smoke free? Do premises include staff member's cars, delivery trucks, etc?

P. 57 HFS 46.06 (2) (k) Hot Tub rules do not apply to group centers. Children under the age of 12 are not permitted in hot tubs anyway.

P. 60 # 5 and # 9 are identical items and one should be eliminated.

P. 62 # 3 Clarification on this rule is needed. For an unruly child who is lashing out and may hurt another student or staff members, are bear hugs allowed or are these against the law? Also, with EC students we have been instructed by EC teachers (within the public school system) that this practice may be done for the child's safety. Also, are seat belts allowed for safety of the children during feeding? If they are not using high chairs can they be bucked in for safety? We understand that binding or tying to restrict movement is a concern, but holding such as a bear hug does need to be done occasionally. Does a child then have to left alone somewhere to lash out? Are Centers going to be required to provide a "padded room?" Rules will be needed for special education students who attend child care centers.

P. 62 # 9 What does "based on a medical condition" mean? Does this mean a doctor's note is necessary for each child with an allergy listed on their form (i.e., we can't trust what the parents say)?

P. 63 Written authorization for medicine: Blanket authorizations are not allowed. What about for infants/toddlers who are teething? Can this be an exception for "as allowed" but require a phone call to the parent before actually administering the medicine? And require that the phone call as well as the parent name be entered in the medical log? For a suffering child whose parent is not able to pick up right away, disallowing phone approval for administration of Tylenol or infant gas drops is impractical and constitutes neglect if Centers are not allowed to keep such items "on hand."

P. 63 # 5 This rule is inconsistent with 46.04 (6) (a) 2. This section allows a Center to use the child enrollment form or a Center-designed form, but # 5 and the note only allows the State form. These two sections must be consistent. The note at the top of P. 64 needs to worded as allowing the state form or a Center form that includes the items listed on the State form.

P. 64 (d) Are existing pets going to be grandfathered? We currently have a water dragon and some fish that pose no danger to the children. This law is overly restrictive. We also offered a "wild animal show" program this summer, so that would no longer be allowed. Animals on premise teach the kids responsibility and how to care for them at home. Parents don't always have the capability of having their own pets, and some choose a Center because they have animals. It is a selling point.

P. 64 46.08 (2)(b)3 Does the transportation permission form have direct correlation to consent for emergency medical treatment? We thought the transportation form was separate from the consent for medical treatment that appears on the registration (enrollment) form.

P. 65 HFS 46.08 (4)(d) This law should have some clarification to allow a twelve year old or weight allowance for use of the front seat. We would be unable to use that seat which would be a waste. With a large child and/or older child, we should be allowed to use the front seat for transportation. Otherwise, what purpose would there be to a fifteen passenger van?

P. 68 (f) Physical or Mental Health of Staff How can an individual licensing inspector make a determination to have someone tested? We have had several instances with various inspectors where we would have required them to be tested, unfortunately. Most inspectors are great to work with, but for several we question whether they were competent in their job. One we actually called in a complaint while they were here. This seems too "big brother-ish" to us. Will this determination be documented by a series of warnings, or recommendations by a committee? Is there going to be a procedure that will be followed when requiring a test? And how will that be documented?

We hope these comments help strengthen the laws and look forward to your reply.

Sincerely,

Robert K. Schuelke
Sandra Schuelke
Children's Learning Center, Inc.



Matzen, David

From: Kestell, Steve
Sent: Wednesday, August 04, 2004 6:50
To: 'karen narlow'
Subject: RE: HFS 45 and Public Hearing
Karen,

Thank you for your input and helpful insights on the proposed rule changes.

Rep. Steve Kestell

-----Original Message-----

From: karen narlow [mailto:kknarlow@sbcglobal.net]
Sent: Friday, July 30, 2004 10:25 AM
To: Kestell, Steve
Subject: RE: HFS 45 and Public Hearing

Dear Representative Kestell:

These are the comments that I sent to both Sen. Kanavas and Rep. Nischke.

Date: April 24, 2004

RE: HFS 45 - Family Day Care Rule Revision

My name is Karen Narlow, and I own and operate Karen Kares Home Family Child Care a licensed family child care center (license #230140) in Waukesha. I am writing to you because the Wisconsin State Legislature will be asked to review and approve the changes to the Licensing Rules for Family Child Care Centers (HFS 45). I don't know if you have seen them yet or if they have been approved all ready because the website at DHFS has not been updated recently. Even though there were public hearings, which I attended the one in Waukesha and stated my comments and concerns, I wanted to make them known to you too so you can see if they were addressed in the revisions that were given to the legislature for review and approval based on feedback from the public hearings.

One the positive side, I like the additions of the CPR training, SIDS training and Child Abuse and Neglect training. I also like the addition of HFS 45.07 (6)(a)(1) which allows me to take a sick day.

Basically, I have three concerns with the new revisions to HFS 45 and they are as follows:

- 1) In section 45.03 Definitions (35) Universal Precautions as it references the US Occupational Safety and Health Administration (OSHA) 29 CFR 1910.1030 as far as "measures taken to prevent transmission of infection from contact with blood or other body fluids on them" (page 7) I would like some clarification on this definition preferably in an appendix to the rules. I printed off this section (all 33 pages) and whil a good deal of it relates to HIV and HBV Research Lab and Production Facilities and health care professionals there were several area that may apply to family child care. For example, do I need an Exposure Control Plan? an Exposure Determination Policy? a sharps container? more personal protective equipment in addition to gloves? a biohazard

08/09/2004

sign on my diaper pail? annual training on bloodborne pathogens or a HEP B vaccination???

Please remember I am a family child care provider who cares for children in her home and must live in this same home with her family.

2) In section 45.05 - Staffing (3) (a-k) (page 14 and 15)

(i) requires sight and sound supervision during meals and snacks

(j) requires sight and sound supervision of children under 5 while outdoor.

While I understand why they stated it this way for health and safety reasons, I am the only provider here. What happens if someone needs to go to the bathroom at breakfast, lunch or snack? Do I need to take everyone's food away until I take that child to the bathroom and we come back???

What happens when I am outside and one of the children goes into the playhouse or behind one of my bushes?? They are not within sight and sound. Do I need to remove the playhouse and the bush???

I am only one person and I don't feel sight and sound is a reasonable expectation. I like the wording "sight and/or sound" as it was in the orginial rule. This I feel is a more reasonable expectation.

3) My last concern is HFS 45.07 Program (7) (a-i) (pages 28 and 29) PETS. To me this section is confusing:

point (b) states that pets that pose any risk to the children shall be restricted from the indoor and outdoor areas used by children.

yet the rest of the section (a) and (c-i) tells me what I should do if I have a pet.

Any pet can pose a risk. I currently in my home have 1 dog, 2 parakeets, 4 gerbils, 1 hamster, and a fish tank. While the parakeets, gerbils, hamster and fish do not have any contact with the children, the dog does have contact with the children.

I do not have a problem with the new rules that require a letter for parents that makes them aware of the presence of animals and seeks their permission if a new pet is added; or the requirement of sight and sound supervision as the dog follows me wherever I go; or cleaning up the yard after the dog for health and safety reasons. Most of parents know at the interview stage that I have all these animals and can chose whether or not to enroll their child(ren) in my family child care center.

I do however, have a problem with (f) regarding the feeding dishes not placed in food preparation area or in areas accessible to children. The dog's dishes are in the kitchen with food and water available to him all day long. I do not want to move them on the carpet in the living room. The kitchen is the most logical place for them and where I actually have room for them. I really have not had a problem with the children bothering the dogs dishes in the 14 years I have done child care (only 3 of those years we did not have dog). Since my child care in downstairs in my home the children have limited access to the kitchen area anyway except at meal and snack times. The dishes are also placed away from the area where I prepare food.

The other concern I have is (h) regarding the certificate of libility insurance. I guess I would like clarification on this issue. Will the Department of Regulation and Licensing accept that my dog is covered under the liability portion of my home owner's policy with a copy of the declaration page and a letter from my agent or do I need to go out and purchase a commerical liability policy. I

have looked into commerical policies and some do not even issue if you have a dog.

Thank you taking the time to read my letter and consider my comments and concerns. I guess I just want to state that I am a "family" child care provider. My business is run out of my "home" not a commerical building. I open my home to the children and families I care for, but still have to live in with my own family. A family that has to sacrifice space, wife and mom's time, and privacy to this business that she runs called family child care. Parents choose family child care because of the home like setting and smaller group numbers. Parents have a choice where to put their children in care for the hours that they work. Please with the changes HFS 45, don't make my family sacrifice their pets or get to the point where I need to put a big red lighted "Exit" sign above my door.

Sincerely,

Karen Narlow

Karen Kares Home Family Child Care

Owner/Family Child Care Provider

Karen Kares Home Family Child Care

Note: 7/30/04-

I appreciate the time and energy you and your committee are taking in reviewing this rule.

It will affect many home family child care providers in the state. I am currently reviewing the rules myself with the changes made after the public hearings last year. I have to go through them thoroughly this weekend.

Again, thank you for your efforts on this important issue that affects the quality of child care our children receive in the state of Wisconsin.

Karen Narlow

Karen Kares Home Family Child Care

2315 Kensington Drive

Waukesha, WI 53188

(262) 549-5767- Phone

(262) 549-5747 - Fax

(262) 352-9174 - Cell

kknarlow@sbcglobal.net - Email

"Kestell, Steve" <Steve.Kestell@legis.state.wi.us> wrote:

Karen,

I am currently reviewing the proposed rule and have solicited comments from committee members. There has been no decision made on whether the Assembly Children and Families committee will hold a hearing, but it has not been ruled out. I would appreciate any input that you could offer so please feel free to forward your concerns to my office or email.

Rep. Steve Kestell

-----Original Message-----

From: karen narlow [mailto:kknarlow@sbcglobal.net]

Sent: Thursday, July 29, 2004 7:23 PM

To: Rep.Kestell

Subject: HFS 45 and Public Hearing

Dear Representative Kestell:

My state representative, Ann Nischke, has indicated you are on the Assembly Committee on Children and Families. She indicated to me that this committee is reviewing the proposed changes to HFS 45.

I received a telephone call today from State Senator Ted Kanavas' office indicating that the senate committee in charge of reviewing these rules headed by State Senator Carol Roessler has received a request for a public hearing on these rule revisions and will be holding another public hearing. I was told that the date for the public hearing will be set after August 4th.

I am wondering if the assembly committee would also be holding a public hearing on the proposed rule changes to HFS 45. I had written to both Sen. Kanavas and Rep. Nischke indicating my concerns regarding the proposed rule revisions to HFS 45.

Please let me know the status of the rule HFS 45 in your committee and what action will be taken or has been taken on this rule.

Thank you in advance for your attention to this issue.

Sincerely,

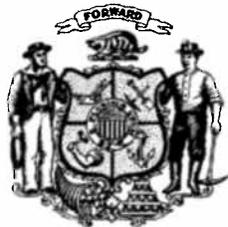
Karen Narlow
Licensed Family Child Care Provider
License #230140
Karen Kares Home Family Child Care

08/09/2004

2315 Kensington Drive
Waukesha, WI 53188
Phone: (262)549-5767
Fax: (262) 549-5747
Email: kknarlow@sbcglobal.net
Cell: (262) 352-9174



WISCONSIN STATE LEGISLATURE





State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

September 3, 2004

The Honorable Carol Roessler
Chairperson
Senate Committee on Health, Children, Families
Aging and Long-Term Care
Room 8 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

The Honorable Steve Kestell
Chairperson
Assembly Committee on Children and Families
Room 17 West, State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Senator Roessler and Representative Kestell:

The Department is hereby submitting a germane modification to Clearinghouse Rule 03-052, relating to family and group child care centers which was submitted by the Department to the legislature on July 6, 2004.

This germane modification reflects a change to the proposed order at s. HFS 45.07 (7) (h), relating to liability insurance covering the presence of dogs and cats that are allowed in areas of a child care center that is accessible to children. The change appears on page 33 of the proposed order. A copy of only the changed language is attached. *

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Munson', written over a horizontal line.

Kenneth Munson
Deputy Secretary

Attachment

GERMANE MODIFICATION TO SECTION HFS 45.07 (7) (h), Adm. Code

Proposed by the Department of Health and Family Services

(CR 03-052)

Delete the currently proposed language at s. HFS 45.07 (7) (h):

(7) (h) A current certificate of liability insurance issued by an insurance carrier specifically covering the presence of dogs and cats shall be on file with the pertinent regional licensing office in appendix A if dogs or cats are allowed in areas of the center accessible to children.

Insert the following language at that same location:

(7) (h) Proof of liability insurance from an insurance carrier specifically covering the presence of dogs and cats shall be on file with the pertinent regional licensing office in appendix A if dogs or cats are allowed in areas of the center accessible to children.



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

September 3, 2004

The Honorable Carol Roessler
Chairperson
Senate Committee on Health, Children, Families
Aging and Long-Term Care
Room 8 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

The Honorable Steve Kestell
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Assembly Committee on Children and Families
Room 17 West, State Capitol
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Madison, WI 53708

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This germane modification reflects a change to the proposed order at s. HFS 45.07 (7) (h), relating to liability insurance covering the presence of dogs and cats that are allowed in areas of a child care center that is accessible to children. The change appears on page 33 of the proposed order. A copy of only the changed language is attached.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Munson', written over a horizontal line.

Kenneth Munson
Deputy Secretary

Attachment

GERMANE MODIFICATION TO SECTION HFS 45.07 (7) (h), Adm. Code

Proposed by the Department of Health and Family Services

(CR 03-052)

Delete the currently proposed language at s. HFS 45.07 (7) (h):

(7) (h) A current certificate of liability insurance issued by an insurance carrier specifically covering the presence of dogs and cats shall be on file with the pertinent regional licensing office in appendix A if dogs or cats are allowed in areas of the center accessible to children.

Insert the following language at that same location:

(7) (h) Proof of liability insurance from an insurance carrier specifically covering the presence of dogs and cats shall be on file with the pertinent regional licensing office in appendix A if dogs or cats are allowed in areas of the center accessible to children.



State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

September 17, 2004

The Honorable Carol Roessler
Chairperson
Senate Committee on Health, Children, Families
Aging and Long-Term Care
Room 8 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

The Honorable Steve Kestell
Chairperson
Assembly Committee on Children and Families
Room 17 West, State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Senator Roessler and Representative Kestell:

The Department is hereby submitting a germane modification to Clearinghouse Rule 03-052, relating to family and group child care centers, which was submitted by the Department to the legislature on July 6, 2004.

The germane modification reflects a change to the proposed order at ss. HFS 45.04 (3) (c) and 46.04 (3) (L) relating to notice to the Department of construction or remodeling of the premises that may affect areas that are accessible to children. The Department is also including an additional informational note under ss. HFS 45.05 (3) (c) and 46.04 (3) (L). The changes appear on pages 12 and 56 respectively, of the proposed order. A copy of only the changed language is attached.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Munson", written over a horizontal line.

Kenneth Munson
Deputy Secretary

Attachment

**GERMANE MODIFICATION TO SECTIONS
HFS 45.05 (3) (c) and 46.04 (3) (L), Adm. Code**

Proposed by the Department of Health and Family Services

(CR 03-052)

HFS 45

Delete the currently proposed language at s. HFS 45.04 (3) (c):

(3) (c) Any construction or remodeling that affects the premises of a center prior to the beginning of the construction or remodeling. If the construction or remodeling has the potential to affect the locations on the premises where children are served or a condition of the license, the construction or remodeling shall receive written approval by the department before the construction or remodeling begins.

Insert the following language at that same location:

(3) (c) Any construction or remodeling on the premises that has the potential to affect an area accessible to children or a condition of the license. Notification shall be provided in writing before the construction or remodeling begins.

Also insert the following Note under the existing Note at s. HFS 45.04 (3) (c):

Note: It is recommended that the licensee check with the local municipality to determine whether a building permit is required before beginning any construction or remodeling.

HFS 46

Delete the currently proposed language at s. HFS 46.04 (3) (L):

(3) (L) Any construction or remodeling that affects the premises of a center prior to the beginning of the construction or remodeling. If the construction or remodeling has the potential to affect where children are served or a condition of the license, the construction or remodeling shall receive written approval by the department before the construction or remodeling begins.

Insert the following language at that same location:

(3) (L) Any construction or remodeling on the premises that has the potential to affect an area accessible to children or a condition of the license. Notification shall be provided in writing before the construction or remodeling begins.

Also insert the following Note under the existing Note at s. HFS 46.04 (3) (L):

Note: It is recommended that the licensee check with the local municipality to determine whether a building permit is required before beginning any construction or remodeling.





State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Helene Nelson, Secretary

October 1, 2004

The Honorable Carol Roessler
Chairperson
Senate Committee on Health, Children, Families
Aging and Long-Term Care
Room 8 South, State Capitol
P.O. Box 7882
Madison, WI 53707-7882

The Honorable Steve Kestell
Chairperson
Assembly Committee on Children and Families
Room 17 West, State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Senator Roessler and Representative Kestell:

The Department is hereby submitting germane modifications to Clearinghouse Rule 03-052, relating to family and group child care centers, which was submitted by the Department to the legislature on July 6, 2004.

These germane modifications reflect changes to the proposed order at ss. HFS 45.03 (6), (34), and (36); 45.04 (2) (e) (intro.), (f), (3) (g), (h), (j), (5) (e) (intro.), and (6) (a) 1.; 45.06 (4) (b); 45.07 (5) (d) and (7) (f); 45.09 (4) (c); 45.11 (3) (c) 2., and (3) (g); 46.03 (10m); 46.04 (3) (h) and (k); and 46.09 (2) (bm). The Department deleted ss. HFS 45.11 (3) (g) and 46.11 (2) (g) and created ss. HFS 45.11 (2) (h) and 46.11 (1) (i). The Department also revised and created a number of informational notes. Appendix E of chs. HFS 45 and 46 was revised to include a form and to correct the title of another form. Sections HFS 45.46.03 (33) and 46.07 (6) (j) 5. were added to the order and amended.

A copy of only the changed language is attached.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken", written over a white background.

Kenneth Munson
Deputy Secretary

Wisconsin.gov

GERMANE MODIFICATIONS
Submitted October 1, 2004

Proposed by the Department of Health and Family Services

(CR 03-052)

Chapter HFS 45

Strikeouts represent deleted language.
Underlining represent added or revised language.

▪ **HFS 45.03 (6), (34), and (36) are revised to read:**

HFS 45.03 (6) "Emergency" means ~~any of the following~~ situations such as: fire; tornado; flood; extreme outdoor heat or cold, loss of building service including, no heat, water, electricity, or telephone; ~~extreme outdoor heat or cold~~; threats to the building or its occupants; lost or missing children; or a medical or provider family situation such as a medical emergency, illness or other circumstance requiring immediate attention.

(34) "Supervision" means guidance of the behavior and activities of children while awake and asleep for their health, safety and well-being by a provider who is within sight or sound of the children except as specified in s. HFS 45.07 (7) (e) and HFS 45.05 (3) (i).

(36) "Universal precautions" means measures taken to prevent transmission of infection from contact with blood or other ~~body fluids or materials having blood or other body fluids on them~~ potentially infectious material, as recommended by the U.S. public health service's centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

▪ **HFS 45.04 (2) (e) (intro.), (f), (3) (g), (h), (j), (5) (e) (intro.), and (6) (a) 1. are revised to read:**

HFS 45.04 (2) (e) (intro.) Develop, submit to the department for ~~approval~~ compliance review, implement and provide to the parents written policies and procedures related to all of the following:

(f) Develop, submit to the department for approval and implement a written orientation plan for any employees, substitutes and emergency back-up providers. The orientation plan shall cover all the items described in s. HFS 45.05 (2) (a) and (b).

(3)(g) Any incident involving law enforcement ~~that occurs on the premises or involves a person on the premises~~ within 24 hours after the incident occurrence that:

1. Involves a licensee, a household resident or an employee of the center in an incident that causes, or threatens to cause, physical or serious emotional harm to an individual, including a child in the care of the center.

2. Involves any traffic-related incident where a person responsible for the violation transports children in the care of the center.

(h) Any change in room usage, such as ~~changing the way rooms are used by children or~~ using rooms not previously approved for use at least 20 working days prior to the change. Changes in room usage shall be approved by the department prior to the change.

(j) A change ~~of any program service, such as changes in transportation or food services at the center and seasonal closings,~~ at least 5 calendar days prior to the change. ~~Changes in program~~ A change in transportation services shall be approved by the department. Seasonal closing shall be reported at least 5 calendar days prior to the closing.

(5) (e) (intro.) Except as provided under par. (f), a physical examination report on a form provided by the department that was completed within 12 months prior to or 30 days after the person ~~become~~ became licensed ~~to~~ or began working with children. The report shall be dated and signed by a licensed physician, physician's assistant or HealthCheck provider. The report shall indicate all of the following:

(6) (a) 1. Enrollment information and health history on a form ~~prescribed~~ provided by the department. The enrollment information and health history shall be on file prior to the child's first day of attendance.

▪ **HFS 45.06 (4) (b) is revised to read:**

HFS 45.06 (4) (b) An operable fire extinguisher with a minimum rating of 2A-10BC shall be provided for the kitchen and cooking area and inspected annually, and a provider shall know how to use it. Inspection tags are not required, but documentation of the inspection must be kept on file at the center.

▪ **HFS 45.07 (5) (d) and (7) (f) are revised to read:**

HFS 45.07 (5) (d) Accurate records of meals and snacks served to children shall be available for review by parents and the licensing representative. Written records of meals and snacks served to children must be kept for 3 months.

(7) (f) Pets are prohibited in any food preparation or serving area when food is being prepared or served. ~~Pets, pet~~ Pet feeding dishes, cages and litter boxes are prohibited in any food preparation, storage or serving areas. Animal feeding dishes and litter boxes may not be placed in areas accessible to children.

▪ **HFS 45.09 (4) (c) is revised to read:**

HFS 45.09 (4) (c) If the diapering surface is above floor level, provide a strap, restraint or other structural barrier or restraint to prevent falling. A child may not be left unattended on the diapering surface.

- **HFS 45.11 (2) (h) is added to the proposed order and created to read:**

HFS 45.11 (2) (h) The department shall consider a licensee who fails to submit any of the materials described in sub. (4) or (5) by the expiration date of a license to have surrendered the license and to no longer hold title to the license. The former licensee may not continue to operate the child care center.

- **HFS 45.11 (3) (c) 2. is revised to read:**

HFS 45.11 (3)(c) 2. A completed background information disclosure form provided by the department for the applicant and, if the center will located in a residence, any household member aged 10 and above and any applicable fees.

- **HFS 45.11 (3) (g) is deleted:**

~~HFS 45.11 (3) (g) The department shall consider a licensee who fails to submit any of the materials described in sub. (4) or (5) by the expiration date of a license to have surrendered the license and to no longer hold title to the license. The former licensee may not continue to operate the child care center.~~

- **Ch. HFS 45 Appendix E is revised:**

Include form CFS-2344 Health History Emergency Care Plan. The title of form CFS-0062 in Appendix E is corrected to read: Child Enrollment.

- **Revise and/or create the following notes to read:**

HFS 45.03 (36) Note: "Standard precautions" for infection control measures incorporate universal precautions. Information on the OSHA requirements related to standard or universal precautions is available on the OSHA web site at <http://www.osha.gov>. Information is also available by calling (608) 224-4810.

HFS 45.04 (6) (a) 1. Note: The Department's form CFS-0062 or CFS-0062A, Child Care Enrollment Form and the CFS 2344 Health History and Emergency Care Plan Form are used for recording enrollment and health history information. Information on how to obtain the forms is in Appendix E. See s. HFS 45.07 (6) (L) 5. for information on sharing information related to a child's special health care needs.

2. Note: The Department's form CFS-0062, Child Care Enrollment Form, includes a blanket authorization to take children on field trips. The Department's form CFS-0058 or CFS-0058A, Day Care Field Trip or Other Activity Notification, or another type of notification such as a note to a parent may be used to provide specific information about a field trip. Information on how to obtain the Department's forms is in Appendix E.

HFS 45.06 (3) Note: The Licensee may use either Department's form CFS-0460, Family Child Care Fire and Safety Report or the licensee's own form to document when the fire and tornado emergency plan was practiced. Information on how to obtain the Department's form is in Appendix E.

HFS 45.07 (6) (k) Note: See HFS 45.04(3)(a) regarding reporting injuries that require medical attention to the Department within 48 hours after the occurrence.

Note: The Department's Child Care Enrollment Form, CFS-0062 and CFS-0062A, includes authorization for the center to obtain emergency medical care for a child. Information on how to obtain forms is in Appendix E.

HFS 45.07 (6) (L) 5. Note: The Department's form CFS-2344, Health History and Emergency Care Plan, is used to record each child's health history. Information on how to obtain the form is in Appendix E.

HFS 45.08 (2) (c) Note: The licensee must use the Department's form CFS-0062 or CFS-62A, Child Enrollment form to obtain consent of the child's parent for emergency medical treatment. Information on how to obtain the Department's form is in Appendix E.

Chapter HFS 46

Strikeouts represent deleted language.
Underlining represent added or revised language.

▪ **HFS 46.03 (10m) is revised to read:**

HFS 46.03 (10m) "Emergency" means any of the following situations such as: fire; tornado; flood; extreme outdoor heat or cold, loss of building service including, no heat, water, electricity, or telephone; ~~extreme outdoor heat or cold;~~ threats to the building or its occupants; lost or missing children; or a circumstance such as a medical emergency, illness or family other situation requiring immediate attention that may be disruptive to a child or children in the care of the center.

▪ **HFS 46.03 (33) is added to the proposed order and amended to read:**

(33) "Universal precautions" means measures taken to prevent transmission of infection from contact with blood or ~~other body fluids or materials having blood or other body fluids on them~~ other potentially infectious material, as recommended by the U.S. public health ~~services~~ service's centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

▪ **HFS 46.04 (3) (h) and (k) are revised to read:**

HFS 46.04 (3) (h) A Any change in room usage, such as changing the way rooms are primarily used by children or using rooms not previously approved for use at least 20 working days prior to the change. ~~The department shall approve changes~~ Changes in room usage shall be approved by the department prior to the change.

(3)(k) Any incident involving law enforcement ~~that occurs on the premises or involves a person on the premises~~ within 24 hours after the occurrence that:

1. Involves a licensee, a household resident or an employee of the center in an incident that causes, or threatens to cause, physical or serious emotional harm to an individual, including a child in the care of the center.
2. Involves any traffic-related incident where a person responsible for the violation transports children in the care of the center.

- **HFS 46.07 (6) (j) 5. is added to the proposed order and amended to read:**

HFS 46.07 (6) (j) 5. Each center shall have a supply of bandages, tape, ~~bandaids~~ and Band-Aids and ~~syrup of ipecac~~.

- **HFS 46.09 (2) (bm) is revised to read:**

HFS 46.09 (2) (bm) Each child under one year of age shall be placed to sleep on his or her back in a crib unless otherwise specified in writing by the child's physician. The child shall be allowed to assume the position most comfortable to him or her when able to roll over unassisted.

- **HFS 46.11 (1) (i) is created to read:**

HFS 46. 11 (1) (i) The department shall consider a licensee who fails to submit any of the materials described in sub. (3) or (4) by the expiration date of a license to have surrendered his or her license and to no longer hold title to the license. The former licensee may not continue to operate the child care center.

- **HFS 46.11 (2) (g) is deleted.**

~~HFS 46.11 (2) (g) The department shall consider a licensee who fails to submit any of the materials described in sub. (3) or (4) by the expiration date of a license to have surrendered his or her license and to no longer hold title to the license. The former licensee may not continue to operate the child care center.~~

- **Ch. HFS 46 Appendix E is revised:**

Include form CFS-2344 Health History Emergency Care Plan. The title of form CFS-0062 in Appendix E is corrected to read: Child Enrollment.

- **Revise and/or create the following notes to read:**

HFS 46.03 (33) Note: "Standard precautions" for infection control measures incorporate universal precautions. Information on the OSHA requirements related to standard or universal precautions is available on the OSHA web site at <http://www.osha.gov>. Information is also available by calling (608) 224-4810.

HFS 46.04 (6) (a) Note: The Department's form CFS-2344, Health History and Emergency Care Plan, is used for health history information. Information on how to obtain the form is in Appendix E.

HFS 46.04 (6) (a) 2. Note: The licensee may use either the Department's form CFS-0062 or CFS-0062A Child Enrollment Form, or the licensee's own form to obtain consent of the child's parent for emergency medical treatment. Information on how to obtain the Department's form is in Appendix E.

HFS 46.04 (6) (a) 6. Note: The Department's form CFS-2344 Health History and Emergency Care Plan is used for health history information. Information on how to obtain the form is in Appendix E.

HFS 46.05 (2) (a) 12. Note: The licensee may use either the Department's form CFS-2026, Group Child Care Staff Orientation Checklist for documenting staff orientation. Information on how to obtain the Department's form is in Appendix E.

HFS 46.05 (4) (f) Note: The licensee may use the Department's form CFS-0078, Child Care Staff-Child Ratio Worksheet – Group Child Care Centers, to adjust the staff-to-child ratio. Information on how to obtain the Department's form is in Appendix E

HFS 46.07 (6) (k) 5. Note: The Department's form CFS-22344, Health History and Emergency Care Plan, is used to record a child's health history. Information on how to obtain the form is in Appendix E.

HFS 46.07 (6) (L) Note: The Department's form DPH-4192 or DPH-4192S, Day Care Immunization Record, is used to record immunization information. An electronic printout from the Wisconsin Immunization Registry, or other registry maintained by a health care provider may be used in place of DPH-4192 or DPH 4192S. Information on how to obtain the form is in Appendix E.