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☛ Details: Legislative Audit Bureau information on licensing and monitoring of child care and child welfare facilities by the Department of Health and Family Services

(FORM UPDATED: 08/11/2010)

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

## 2003-04

(session year)

## Joint

(Assembly, Senate or Joint)

## Committee on Audit...

### 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**



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September 16, 2004

Senator Alberta Darling  
317 East, State Capitol  
Madison, Wisconsin 53702

Dear Senator Darling:

At your request, we have compiled information on the licensing and monitoring of child care and child welfare facilities by the Department of Health and Family Services (DHFS). In fiscal year (FY) 2003-04, DHFS spent \$6.7 million for licensing activities. These funds supported the work of 96.0 full-time equivalent positions responsible for regulating providers and conducting related activities.

The number of child care and child welfare facilities increased 11.6 percent from 1999 through 2003, reaching 5,912 on December 31, 2003. Milwaukee County accounts for 25.2 percent of all regulated facilities. The number of staff positions directly responsible for conducting on-site visits and investigating complaints related to these facilities decreased 7.1 percent from 1999 through 2003. Three more of these positions were reallocated to other bureaus within DHFS after our review period.

We also accumulated statistical information related to complaint and enforcement actions. The number of complaints filed increased 3.8 percent during our review period and totaled 1,706 in 2003. Enforcement actions in response to proven violations of licensing requirements more than doubled.

To accommodate an increased workload resulting from fewer staff, an increase in the number of facilities, and an increase in complaint investigation and enforcement actions, DHFS has reduced the frequency of on-site inspections of certain child care facilities and targets its monitoring efforts to areas of higher risk. While these changes do not violate statutory requirements, they have reduced the number and depth of the monitoring performed.

I hope you find this information useful. Please contact me if you have any questions or desire additional information.

Sincerely,

Janice Mueller  
State Auditor

JM/BN/bm

cc: Senator Carol Roessler  
Representative Suzanne Jeskewitz

## LICENSING AND REGULATION OF CHILD CARE FACILITIES

The Bureau of Regulation and Licensing in the Department of Health and Family Services (DHFS) licenses and regulates two types of facilities that care for children in an out-of-home setting:

- Child care facilities provide less than 24-hour-a-day care and supervision and are required to be licensed if they provide care for four or more children under the age of seven who are unrelated to the provider.
- Child welfare facilities provide supervision, care, and treatment to children who are not living with a parent or guardian, generally as the result of either a court-ordered removal from the home or a voluntary placement agreement. All child welfare facilities must be licensed. Child placing agencies, such as Lutheran Social Services and La Causa in Milwaukee, are also categorized as child welfare facilities.

As of December 2003, the Bureau regulated 5,912 facilities. As shown in Table 1 on the following page, 5,661 child care facilities and 251 child welfare facilities were included in this total.

Statutory authority to license child care and child welfare facilities is established through s. 48.66, Wis. Stats. Statutes also establish licensing fees for each type of facility, require criminal background checks of caregivers, and require DHFS to promulgate rules establishing the minimum requirements for the issuance of licenses and operation standards for facilities. Further, Chapter 48 authorizes DHFS to inspect facilities and investigate complaints.

DHFS has established administrative rules setting forth the minimum licensing requirements and operation standards for each facility type. In addition, internal policies and procedures established by the Bureau of Regulation and Licensing within the Division of Children and Family Services are used in determining the type and frequency of on-site monitoring visits, as well as in performing complaint investigations and issuing sanctions and penalties. In August 2004, DHFS proposed changes to the administrative rules for family and group day care centers, but these proposed changes relate to operational requirements and not to DHFS's internal policies and procedures for monitoring facilities.

The Department of Workforce Development has also established administrative rules under which county and tribal governments may certify child care providers who are not required to be licensed by DHFS, such as providers caring for fewer than four children. However, these rules and the certification and regulation functions performed by county and tribal governments were not included in the scope of our review.

Table 1

**Regulated Facilities**  
December 2003

Type	Description	Number
<b>Child Care</b>		
Family Day Care Centers <sup>1</sup>	Provides care for four to eight children, generally in the provider's home.	3,183
Group Day Care Centers	Provides care for nine or more children.	2,409
Day Camps	Provides programs for four or more children and features out-of-door activities.	69
Subtotal Child Care		5,661
<b>Child Welfare</b>		
Group Foster Homes	Provides 24-hour care for five to eight children or youth.	120
Residential Care Centers	Facilities, such as Rawhide Boys Ranch and St. Aemilian, that provide residential care and treatment for children, youth, and adults.	43
Shelter Care	Provides short-term, non-secure residential care and physical custody of children pending court action.	27
Child Placing Agencies	Private organizations, such as Lutheran Social Services and La Causa, that provide case management services for children removed from their homes through court orders or voluntary placement agreements. These organizations are licensed to place children in licensed group foster homes or residential care centers, as well as family foster homes or treatment foster homes licensed by a county agency or child placing agency, and adoptive placements.	61
Subtotal Child Welfare		251
<b>Total Facilities</b>		<b>5,912</b>

<sup>1</sup> Excludes providers certified by county agencies under Department of Workforce Development rules.

## Bureau Expenditures and Funding Sources

During FY 2003-04, the Bureau spent \$6,654,900 of which \$5,494,200, or 82.6 percent, funded staff salaries and fringe benefits. Over the past five years, the State has been shifting the Bureau's costs away from general purpose revenue to federal funding. As a result, funding through the federal Child Care and Development Block Grant has increased significantly and, as shown in Table 2, general purpose revenue funding has decreased from \$1,702,400 in FY 1998-99 to \$659,300 in FY 2003-04.

Table 2

### Expenditures and Funding Source

Funding Source	FY 1998-99 Expenditures	FY 2003-04 Expenditures	Percentage Increase (Decrease)
<b>General Purpose Revenue</b>	\$1,702,400	\$ 659,300	(61.3%)
<b>Program Revenue</b>			
Federal Child Care and Development Block Grant Fund	2,628,100	4,534,500	72.6
Licensing Fees	695,300	780,600	12.3
Federal Social Services Block Grant	960,900	665,300	(30.1)
Other	0	15,200	100.0
<b>Subtotal Program Revenue</b>	<b>4,284,300</b>	<b>5,995,600</b>	<b>40.0</b>
<b>Total</b>	<b>\$5,986,700</b>	<b>\$6,654,900</b>	<b>11.2</b>

In FY 2003-04, program revenue, which includes both federal funds and fees, funded 90.1 percent of the Bureau's expenditures. The largest source of program revenue funds, the federal Child Care and Development Block Grant Fund, is administered by the Department of Workforce Development. The amount received by the Bureau is established in s. 49.155(1g)(c), Wis. Stats., and is further set forth in a memorandum of understanding between DHFS and the Department of Workforce Development. DHFS requests these funds from the Department on a quarterly basis. In addition to this federal funding, a portion of the Social Services Block Grant, which DHFS uses to fund various social services programs, is allocated to the Bureau for licensing and monitoring purposes.

The Bureau's licensing revenue comes from fees paid by providers who operate child care or child welfare facilities in Wisconsin. Licenses are issued for two-year periods. In addition to license fees, certain facilities also pay a per child fee that is based on the licensed capacity. Licensing fees vary by facility type and are set by statute. They have not changed since FY 1998-99. The current fee structure is shown in Table 3.

Table 3

**Licensing Fee Schedule**

Facility	Two-Year Licensing Fee	Two-Year per Child Fee, Based on Licensed Capacity
Family Day Care Centers	\$ 60.50	N/A
Group Day Care Centers	30.25	\$ 8.47
Day Camps	30.25	8.47
Group Foster Homes	121.00	18.15
Residential Care Centers	121.00	18.15
Shelter Care	60.50	18.15
Child Placing Agencies	254.10	N/A

During the 2001-03 biennial budget process, the legislature considered increasing the licensing fees, which would have avoided the need to reduce staffing levels within DHFS. At that time, the Legislative Fiscal Bureau estimated that a 27.0 percent increase in the fees, effective October 1, 2001, would have increased fee revenue during the 2001-03 biennium by \$346,700. However, the fee increase was not adopted, and the Legislature eliminated 4.0 full-time-equivalent (FTE) positions from the Bureau. In November 2001, 0.75 positions were added back, under the provisions of s. 16.505(2), Wis. Stats. During the 2003-05 budget process, there was no formal legislative consideration to increase the licensing fees.

Subsequent to the enactment of the 2001-03 budget, 2003 Wisconsin Act 1 required DHFS to lapse \$267,000 from its licensing fee program revenue appropriation to the General Fund during FY 2002-03. This balance was generated primarily as the result of position vacancies, the elimination of 4.0 FTE positions during the FY 2001-03 budget, and a transfer of 0.6 FTE positions to the child care and development block grant fund. As a result of the required lapse, the continuing balance in the licensing fee revenue appropriation was reduced, and the balance in this appropriation as of June 30, 2004, was \$3,200, as shown in Table 4.

Table 4

**Licensing Fee Program Revenue Balance**  
as of June 30

As of End of Fiscal Year	Balance
1999-2000	\$65,000
2000-01	0
2001-02	232,100
2002-03	6,800
2003-04	3,200

**Staffing and Workload**

As of April 2004, the Bureau had a total of 96.0 FTE positions located in the central office, five regional offices, and three district offices. As shown in Table 5, six staff were located at the central office, and 90.0 FTE were located in the regional and district offices. Staff are categorized as supervisors, licensing specialists, or support staff.

Table 5

**FTE Classifications**  
April 2004

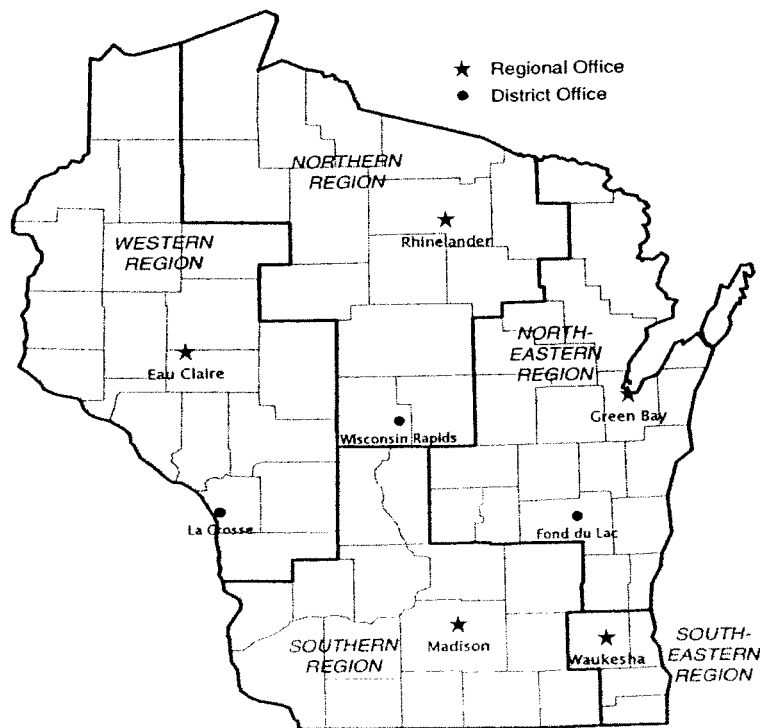
Classification	Authorized Positions
<b>Central Office Staff</b>	6.0
<b>Regional/District Staff</b>	
Supervisors	7.0
Licensing Specialists	57.6
Support Staff	25.4
<b>Total</b>	<b>96.0</b>

The six central office staff included the Bureau's director, two program specialists, one compliance specialist, and two support staff. Central office staff assist the field offices and provide information to child care and child welfare providers. The two program specialists, one for child care and one for child welfare, consult and provide information related to procedures and enforcements in their respective areas.

The five regions accounted for the remaining 90.0 FTE positions. Each region is responsible for monitoring child care and child welfare facilities in several counties, as shown in Figure 1, and three regions have both regional and district offices.

Figure 1

### Regional and District Offices



In addition, the Bureau contracts with the Wisconsin Child Care Improvement Project, a nonprofit organization located in Hayward, whose staff provide pre-licensing technical assistance for applicants across Wisconsin. The services provided under this contract have been reduced. As a result, contracted payments were also reduced, from \$307,200 under the FY 1999-2000 contract to \$287,000 under the FY 2003-04 contract.



Regional and district staff are directly responsible for regulating and licensing child care and child welfare facilities. In April 2004, at the time of our fieldwork, there were 57.6 licensing specialist positions in the regional/district offices, of which 3.0 positions were vacant. Licensing specialists are responsible for:

- evaluating license applications;
- conducting background checks and performing pre-licensing studies;
- making license decisions and issuing licenses;
- conducting license continuation determinations;
- conducting on-site monitoring visits;
- investigating complaints and preparing complaint findings;
- providing technical assistance and consultation; and
- taking enforcement actions, including issuing compliance orders, assessing forfeitures, and denying, suspending, and revoking licenses.

There has been an increase in the number of facilities licensed and regulated by the Bureau since 1999. One reason for the increase has been increased participation in the Department of Workforce Development's child care subsidy program, also referred to as the Wisconsin Shares program. As shown in Table 6, the most significant increase in the number of licensed facilities occurred in Milwaukee County.

Table 6

**Facilities Regulated, by Region**

Region	Calendar Year 1999	Calendar Year 2003	Increase in Facilities	Percentage Increase (Decrease)
<b>Northeastern</b>	952	1,099	147	15.4%
<b>Northern</b>	521	574	53	10.2
<b>Southeastern</b>				
Milwaukee County	932	1,490	558	59.9
Remaining Counties <sup>1</sup>	818	571	(247)	(30.2)
<b>Subtotal Southeastern</b>	<b>1,750</b>	<b>2,061</b>	<b>311</b>	<b>17.8</b>
<b>Southern</b>	1,220	1,271	51	4.2
<b>Western</b>	856	907	51	6.0
<b>Statewide Total</b>	<b>5,299</b>	<b>5,912</b>	<b>613</b>	<b>11.6</b>

<sup>1</sup> In 2000 and 2002, responsibility for approximately 275 facilities that had been the responsibility of the Southeastern Region offices shifted to other regional offices. As a result, the number of facilities in the remaining counties of the Southeastern Region decreased.

During this same period, as the result of various budget reductions, the number of licensing specialists regulating facilities has decreased. In 1999 there were 62.0 licensing specialist positions, and in 2003 there were 57.6, for a decrease of 7.1 percent. This decrease, along with the increase in the number of facilities being regulated, has increased the average number of facilities per licensing specialist from 85.5 per specialist in 1999 to 102.7 per licensing specialist in 2003. Table 7 shows the average number of facilities per licensing specialist position for each region in 2003.

Table 7

**Average Facilities per Licensing Specialist, by Region**  
 Calendar Year 2003

Region	Facilities	Licensing Specialists	Average Facilities/Specialist
Northeastern	1,099	10.5	104.7
Northern	574	5.5	104.4
Southeastern	2,061	19.8	104.1
Southern	1,271	12.8	99.3
Western	907	9.0	100.8
<b>Total</b>	<b>5,912</b>	<b>57.6</b>	<b>102.7</b>

These caseloads exceed standards developed by national associations. The National Association for the Education of Young Children, an organization that promotes excellence in early childhood education, recommends that child care facility caseloads should not exceed 75 facilities and indicates caseloads of 50 facilities are more desirable. For child welfare facilities, the National Association for Regulatory Administration, an organization that promotes excellence and care in licensing and regulation, recommends that the average caseload should not exceed 30 child welfare facilities.

The workload of licensing specialists has also increased as the result of complaints and enforcement actions. As shown in Table 8, at least 1,600 complaints were filed with the Bureau during each of the past five calendar years. The number of proven violations increased 24.5 percent, and the number of enforcement actions doubled during this same period.

Table 8

**Complaints and Enforcement Actions, Statewide**

	1999	2000	2001	2002	2003	Percentage Increase, 1999 to 2003
<b>Complaints Filed</b>	1,643	1,696	1,699	1,627	1,706	3.8%
Proven Violations	963	1,058	1,194	1,130	1,199	24.5
Unfounded/ Unsubstantiated Violations	1,735	1,783	1,830	1,671	2,107	21.4
<b>Total Alleged Violations</b>	<b>2,698</b>	<b>2,841</b>	<b>3,024</b>	<b>2,801</b>	<b>3,306</b>	22.5
<b>Enforcement Actions</b>	220	256	273	312	443	100.4

Each complaint received by the Bureau may involve several alleged violations. For example, a complaint may require the Bureau to determine whether the facility has enough staff for the number of children in care and also whether the staff are qualified. These would be separate violations of the licensing rules, and each would require investigation.

The Bureau requires investigation of complaints suggesting imminent danger to the health, safety, and welfare of children to begin no later than the next day after the complaint is received. For all other complaints, investigation must begin within ten days. Licensing specialists are directed to follow the Bureau's policies and procedures in interviewing facility staff and reviewing each complaint to either prove a violation occurred or to determine if the potential violation is unfounded or unsubstantiated. We were not able to readily obtain information on whether these time requirements are being met, because monitoring of this requirement is completed at each regional office.

Enforcement actions may also arise from sources other than complaints, such as media reports and routine on-site inspections by the licensing specialist. Enforcement actions in response to proven violations may range from a warning letter to immediate closure of a facility. The most common enforcement actions taken by licensing specialists in 2003 were compliance orders requiring facilities to correct proven violations. For example, a facility may be required to implement a corrective action plan, such as providing additional staff training, if a violation is related to staff qualifications.

As noted, the number of enforcement actions has more than doubled over the past five years. Both increases in the number of regulated facilities and changes in the Bureau's monitoring procedures may be contributing factors to this increase.

### **Monitoring of Facilities**

The Bureau's monitoring policies and procedures require on-site visits or inspections by licensing specialists. The Bureau views these on-site visits as a preventive and proactive approach to identifying problems and providing necessary technical assistance. Before a facility is granted a two-year license, it must first receive a six-month probationary license. Bureau procedures require an on-site visit before the start of the probationary period, and another on-site visit during the probationary period to test any requirements that could not be tested until the facility was in operation. If it successfully passes the probationary period, the facility receives a two-year license.

During a facility's first two-year licensing period, the Bureau performs two on-site visits. For the second licensing period, the Bureau decides on one of three monitoring levels:

- 1) a maximum level of monitoring requiring multiple on-site visits in a year;
- 2) a moderate level of monitoring requiring two or more on-site visits a year; and
- 3) a minimum level of monitoring requiring one to two on-site visits a year.

Facilities placed in the minimum level of monitoring include only family child care centers and group child care centers licensed to care for 50 or fewer children. All other facilities are in the maximum or moderate level of monitoring and are to receive at least two on-site visits a year.

Because of limitations in the information system used to track monitoring visits, the Bureau was not able to readily provide us with information on whether the planned number of on-site visits to facilities actually occurred. On-site monitoring is conducted at the regional level, and compliance with a facility monitoring plan is a regional responsibility. A centralized review of each region's compliance with the on-site monitoring requirement is not formally conducted. However, based upon an informal review they conducted, the Bureau's central staff estimate that 97 percent of facilities statewide were monitored according to plans. Further, they estimated that a majority of the facilities that were not monitored according to the plan were in the Southeastern Region.

### **Changes to Monitoring Standards**

To address the increased workload and reductions in staffing that have occurred over the past several years, the Bureau has adjusted its regulatory standards and procedures on three separate occasions.

First, in 1998, DHFS became responsible for the administration of child welfare services in Milwaukee County. As a result of this change, DHFS began contracting with private organizations to provide child welfare services in Milwaukee, all of whom needed to be licensed as a child placing agency. The pre-licensing workload involved with child placing agencies requires a significant amount of time on the part of the licensing specialist. Unlike the pre-licensing work performed for child care facilities, which is performed by Wisconsin Child Care Improvement Project staff under contract with DHFS, the pre-licensing workload for child placing agencies is performed by the Bureau's regional staff. Pre-licensing activities for child placing agencies include a review of the site/building selection, facility policies, organization, and staffing. It requires multiple visits. Four new child placing agencies were licensed in 1999 and 2000. Two had licensed capacities to provide services for 3,600 children, and an existing child placing agency amended its licensed capacity to serve 2,200 children. In total, these nonprofit organizations were licensed to serve nearly 6,000 children. This more than doubled the child placing agency capacity from 1998. To adjust to these developments, the Bureau made changes in its staffing responsibilities and moved the regulation of three counties from the Southeastern Region to other regions. At the same time, it reallocated three licensing positions from other regional offices to the Southeastern Regional Office.

Second, in response to a DHFS workload study completed in September 2000, the Bureau revised its regulatory standards and reduced the number of required unannounced on-site monitoring visits for certain facilities. Before this time, each facility was subject to two unannounced on-site visits during its second and any subsequent licensing periods. After this change, group day care centers with a capacity of 9 to 50 children were only subject to one annual unannounced on-site visit. This allowed the Bureau to prioritize its workload to ensure that complaint, enforcement, monitoring, and other statutorily required functions would be met with current staffing.

Finally, in February 2002, following the elimination of 4.0 licensing positions under 2003 Wisconsin Act 33, the Bureau's licensing staff began to review only a sample of child and staff records as part of unannounced on-site monitoring visits. Previously, all child and staff records were reviewed during unannounced on-site visits.

While adjustments in these regulatory standards have not violated statutory requirements, they have served to reduce the amount of time that licensing staff spend on preventative efforts at each facility. Lessening the amount of preventive activity may have been a factor in the increase in enforcement actions shown in Table 8.

The Bureau is planning to further adjust its regulatory standards in response to a recent reallocation of 3.0 vacant licensing specialist positions and 1.0 vacant program assistant position. While this reallocation to other bureaus in the Division of Children and Family Services enables DHFS to address concerns raised during a recent federal review of Wisconsin's Child Welfare System, it reduces the number of staff dedicated to licensing activities. To address the increased workload for licensing specialists caused by staffing reductions, the Bureau is planning to review 978 part-time child care facilities once every two years, at the time of their license continuation reviews, rather than annually as is currently done. In addition, the Bureau may eliminate the requirement that child care facilities prepare a written correction plan for deficiencies noted during the on-site visit. In lieu of this written plan, licensing specialists would verify corrections during the next monitoring visit.

## Other Issues

During our review, limited information was available from the computerized system that tracks issued licenses and information on these licenses. Information in the system includes license continuation and expiration dates, conditions of the license, visits to the facilities, complaints and enforcement actions, and fees and background check information. The system also contains data pertaining to unlicensed providers against whom complaints have been lodged. Because of the limitations of the system, the Bureau was not readily able to provide documentation that it performed on-site visits in accordance with the facilities monitoring plans. Further, information regarding proven violations and enforcement actions is not available to the general public through the Internet. This information is available only through the Bureau's staff.

In addition to the limitations of the system, staff indicate there is currently no support for ongoing maintenance and enhancement to the system. A DHFS assessment, completed in April 2004, indicates that the system does not provide the functions needed by the Bureau in carrying out its licensing activities. This assessment further identified system requirements for the Bureau to process licensing information and included recommendations to either improve the existing system or develop a new one. Costs associated with the identified options range from \$468,000 to \$788,000. DHFS staff are currently considering potential sources of funding that would enable them to implement one of the options.

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