

# Response to Legislative Council Recommendations

## Proposed Rules Relating to Child Care Certification Chapter DWD 55 CR 07-071

All recommendations were accepted, except the following:

Comment 4.a. Section DWD 55.08 (1) (d) should contain a cross reference to the rule provisions that set forth the standards and procedures for approval of substitutes, employees, and volunteers of a provider by the certifying agency.

*Department response:* The standards for approval of substitutes, employees, and volunteers of a child care operator have been added to s. DWD 55.08 (1) (d). The Department does not agree that the procedures for approval must be in administrative rule. The issues will be covered in the policy manual and operations memos.

Comment 5.e. Section DWD 55.04 (3) (e) should provide more specificity as to the responsibility placed upon the county or tribal agency to determine that an applicant is “fit and qualified.” For example, what sources of information must an agency consult to determine whether an applicant is fit and qualified? For example, how should an agency determine whether an applicant has abused alcohol or drugs or exercised “unsound judgment”?

*Department response:* The Department will provide more specificity in the policy manual.

Comment 5.f. The current rule requires an agency to provide written reasons for denial of child care certification. The rulemaking order eliminates this requirement. Is this change intentional? If so, the analysis to the rule should explain the rationale for this change. If written reasons for denial are not provided, how can a rejected applicant appeal the denial of his or her application?

*Department response:* The rulemaking order repeals a duplicative provision. Section DWD 55.06 (4) provides that if a county or tribal agency denies, suspends, revokes or refuses to renew a certification, the county or tribal agency shall notify the child care operator in writing and give reasons for the action.

Comment 5.g. In s. DWD 55.04 (3) (f), what is the purpose of allowing the certification agency to backdate a certificate of approval to the date that the agency received the application? Will this provision in effect allow an operator to receive payment for care provided before the agency actually reviewed and approved the application? If so, this should be explicitly stated in the analysis to the rule and a rationale for this policy should be provided.

*Department response:* Backdating a certificate of approval to the date that the agency received the application allows more flexibility for parental choice if a parent is using unregulated care and becomes eligible for the child care subsidy. If the unregulated provider agrees to become certified, the subsidy payment can be backdated to the date the provider submitted the certification application as long as the provider is given regulatory approval within 60 days from the application date.

Comment 5.j. Sections DWD 55.08 (1) (b) 1. and 55.09 (2) (a) 2. should specify how department approval of training may be obtained, and how it may be determined whether training has been approved by the department. Also, how will a county or tribal agency determine whether a person has obtained the required training?

*Department response:* The Department does not agree that these procedural issues must be in administrative rule. The issues will be covered in the policy manual and operations memos.

Comment 5.k. For purposes of the requirement set forth in s. DWD 55.08 (1) (b) 2. d., how is it to be determined that a substitute has worked more than 240 hours? Must the operator keep records of the use of substitutes?

*Department response:* The Department does not agree that these procedural issues must be in administrative rule. The issues will be covered in the policy manual and operations memos.

Comment 5.n. Should s. DWD 55.08 (2) (a) 4. c. specify that the window may not be more than a certain height above ground level?

*Department response:* No, the rule only requires that the window be of a certain size. Exits from some windows will require assistance from rescue workers.

Comment 5.q. In s. DWD 55.08 (2) (f) why is the word “appropriately” added to this provision? [rabies vaccination for pets]

*Department response:* The word “appropriately” has been withdrawn. The proposed requirement that the rabies vaccination be documented with a current certificate from a veterinarian remains.

Comment 5.r. Section DWD 55.08 (2) (p) should specify whether the prohibition on the use of lead paint applies to paint that has already been applied or only to the application of new paint. In other words, must the premises be tested for the existence of lead paint in areas accessible to children?

*Department response:* The prohibition on use of lead paint has been withdrawn. The rule prohibits chipping, peeling, or deteriorating paint on exterior or interior surfaces in areas accessible to children.

Comment 5.t. What is the “daily plan” referred to in s. DWD 55.08 (8) (c)? Could the rule be more explicit about the number of hours that a television may be used by a provider per day?

*Department response:* The phrase “daily plan” has been changed to “daily activities.” The Department does not think it is necessary to be more explicit about a limit on the numbers of hours of television. Television use may vary with weather conditions.

Comment 5.v. Why does the rule, in s. DWD 55.09 (7) (c), repeal the requirement that a school-age program maintain first aid supplies?

*Department response:* First aid kits contain creams and ointments that may cause children to have allergic reactions. The rule is updated to state that “staff shall wash superficial wounds with soap and water only and protect the wound with a band-aid or bandage.” This change was made to s. DWD 55.08 (4) (j), affecting certified family child care operators, in 2002. The Department of Health and Family Services has the same provision that applies to licensed child care providers.

Comment 5.w. Why does s. DWD 55.09 (8) (c) repeal the requirement that water from a non-public supply in a school-age program be tested for nitrate and lead levels?

*Department response:* Nitrate in water is primarily harmful to infants; it is not a significant issue for school age children. Lead in water is caused by lead pipes. The water in an old building with lead pipes may initially come out with a high lead concentration because the water has been sitting in the pipes. The lead tests rarely come back positive because the testers let the water run for 2 minutes before taking a sample. The Department instructs child care operators who are in a building that has lead pipes to let the water run a few minutes before using it for cooking or drinking.