

Chapter PW-CY 40

CHILDREN AND YOUTH

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LICENSING DAY CARE CENTERS FOR CHILDREN

PW-CY 40.10 Introduction. (1) **STATEMENT OF INTENT.** The intent of these rules is to protect and promote the health, safety and welfare of children in day care centers in Wisconsin.

(2) **EFFECT OF RULES.** The following rules for licensing have the full effect and force of laws as provided in chapter 227, Wis. Stats. These rules do not repeat the laws related to day care licensing. Persons using these rules should also be aware of and familiar with the statutory sections related to these rules so that they are knowledgeable about the requirements of the law as well as the rules.

(3) **TO WHOM THE RULES APPLY.** The rules apply to all day care centers for children.

(4) **EXCEPTIONS TO RULES.** The department may make exceptions to any of the rules for licensing day care centers when it is assured that granting such exceptions is not detrimental to the health, safety and welfare of children.

(5) **DEFINITIONS.** The following words and phrases have the designated meanings:

(a) *Department* unless qualified means the state of Wisconsin department of Health and Social Services.

(b) *Division* unless qualified means the division of family services of the department.

(c) *Rule* means a regulation, standard, statement of policy or general order (including the amendment or repeal of any of the foregoing) of general application and having the effect of law.

(d) *Day Care Center* means a licensed facility where a person or persons provide, for compensation and/or consideration for service, group care for 4 or more children under 7 years of age, for less than 24 hours a day. A day care center may be licensed as:

1. A day nursery, which must meet all the rules for licensing day care centers, or as

2. A nursery school, which must meet the requirements for day nurseries and in addition, for each 25 children, must have at least one staff member certified as a nursery school teacher by the department of public instruction or a staff member who shows evidence of meeting the qualifications required for such certification.

(e) *Compensation* means payment for day care. This payment can be in the form of a cash fee or in the form of consideration for service performed.

History: 1-2-56; r. and recr. Register, October, 1961, No. 70, eff. 11-1-61; r. and recr. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.11 Organization and administration. (1) **PURPOSE.** (a) Each day care center shall set forth a clearly defined statement of purpose which shall be filed with the department. If the center is incorporated, the constitution and by-laws may be filed with the department in place of the statement of purpose.

(2) **ADMINISTRATION.** (a) The board of directors or the owner shall be legally responsible for the operation of the center and for meeting the rules.

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(13) **SUBPOENAS.** The director of the division for children and youth may sign and issue subpoenas, whether he is to conduct the hearing or not.

(14) **PREHEARING CONFERENCES.** Prehearing conferences may be held at the convenience of the parties and shall be conducted by the director of the division for children and youth or other member or employe of the division designated by him, who shall keep and preserve a record of any agreement as to the issues or stipulation or admission of fact which may be made at such conference. Such record shall be attached to the file and constitute a part of the official record of the case.

(15) **ARGUMENTS.** Except as provided in section 227.12, Wis. Stats., arguments shall be submitted to the department in writing, unless otherwise ordered. Five copies of such written arguments shall be filed with the director of the division for children and youth. The time for filing arguments shall be fixed by the officer presiding at the hearing.

(16) **VARIANCES.** The provisions of section 263.28, Wis. Stats., with reference to variances between the allegations and the proof, shall apply to proceedings under these rules.

PW-CY 40.30 History: 1-2-56; am. (1) (e), (f), (h), (i) and (3) (f) and r. (2) (j). Register, July, 1966, No. 127, eff. 8-1-66; r. Register, September, 1970, No. 177, eff. 4-1-71.

LICENSING CHILD PLACING AGENCIES

PW-CY 40.40 Introduction. (1) (a) *Statement of intent.* The intent of these rules is to protect and promote the health, safety, and welfare of children in the care of child placing agencies in Wisconsin.

(b) *Effect of rules.* The following rules for licensing have the full effect and force of law as provided in section 227.01, Wis. Stats. These rules do not repeat the laws on child care licensing. Persons using these rules should also be aware of and familiar with the statutory sections which relate to these rules so that they are knowledgeable about the requirements of the law as well as the rules.

(c) *To whom the rules apply.* These rules apply to all child placing agencies making application for a license under section 48.60, Wis. Stats.

(d) *Exceptions to rules.* The department may make exceptions to any of the rules for licensing child placing agencies when it is assured that granting such exceptions is not detrimental to the health, safety and welfare of children.

(e) *Definitions.* 1. Department. Unless qualified, the State of Wisconsin Department of Health and Social Services.

2. Rule. A regulation, standard, statement of policy or general order (including the amendment or repeal of any of the foregoing) of general application and having the effect of law.

3. Division. Unless qualified, the division of family services.

4. Division of health. The division of health of the Department of Health and Social Services.

5. Child welfare agency. Any agency required to be licensed under section 48.60, Wis. Stats.

6. Child placing agency. A child welfare agency licensed to place children in foster family homes.

7. Board of directors. The policy making body which governs a child welfare agency and is responsible for compliance with these rules.

8. Legal custodian. The person or agency having the right to the care, custody and control of a child and the duty to provide food, clothing, shelter, ordinary medical care, education and discipline for a child. Legal custody is taken from a parent only by court action.

9. Guardian. The person or agency having the right to make major decisions affecting a child including the right to consent to marriage, to enlistment in the armed forces, to major surgery and to adoption or to making recommendations regarding adoption.

10. Child. Is legally defined as a person under 18 years of age. In addition, these rules use the word to include those persons under continuing juvenile court jurisdiction who have not yet attained age 21.

History: Cr. Register, August, 1957, No. 20, eff. 9-1-57; r. and recr. Register, September, 1970, No. 177, eff. 4-1-71.

PW-CY 40.41 Organization and administration. (1) INCORPORATION. Every child welfare agency shall be incorporated. Any agency incorporated outside of Wisconsin shall secure authorization from the secretary of state to do business in Wisconsin.

(2) **BOARD OF DIRECTORS.** (a) Every agency shall be governed by a board of directors which is responsible for the operation of the agency according to its defined purposes.

(b) If the agency is incorporated in another state, the board of directors shall:

1. Meet in Wisconsin at least once during the period for which the license is issued, or

2. Have a sub-committee of at least 3 Wisconsin residents one of whom shall be a member of the board. This sub-committee shall be responsible to the board of directors to see that board policies are carried out and that there is adherence to licensing rules.

(c) When requested, the board, or its sub-committee if it is in the category covered by paragraph (2) (b) 2. above, shall meet with its licensing representative.

(d) The board shall:

1. Define its responsibilities. These responsibilities shall include:

a. The establishment of policies to be followed by the agency and regular planned review of policies and purposes of the agency to determine that the interests of children are being served.

b. Surveillance that the agency does not discriminate in its personnel practices, intake and services on the basis of race, color and national origin.

c. The exercise of trusteeship for property, investment and protection from liability.

d. Approval of the budget and responsibility for obtaining and disbursing of funds.

e. Employment of a qualified executive and delegation to that executive the responsibility for the administration of the agency and the employment of other staff members.

2. Meet at least semiannually and keep minutes of each meeting which shall be made a part of the permanent records of the agency.

3. Keep informed to insure that the agency fulfills its functions.

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4. Consult with the department prior to the establishment of a new agency or the changing of a basic program of care of an existing agency or the extension of service into additional program or geographic areas.

5. Notify the department when there is a change in the executive of the agency and/or the chief officer of the board.

6. Notify the department of any major changes pending or occurring in the corporate structure, organization or administration of the agency.

(3) APPLICATION. (a) The board shall submit to the department an application to operate an agency on a form prescribed by the department for a license. The application shall be signed by the chief officer of the board and the agency executive. It shall not operate the agency until it receives such a license.

(b) If the board is applying for a license for the first time the application shall be submitted at least 60 days prior to the date on which it proposes to begin operation.

(c) The following material shall accompany the first application for a license:

1. A copy of the articles of incorporation and if existent, a copy of the constitution and by-laws.

2. Evidence of the availability of funds to carry the agency through the first year of operation.

3. A statement of purpose which includes a description of the geographic area to be served, the types of children to be accepted for care, the services to be provided and the program objectives.

4. A general description of each type of position proposed for the agency.

5. A proposed organization chart insuring that there will be staff in number and qualifications for the scope of the agency services.

6. A list of board members including the addresses of the officers of the board.

(d) Subsequent applications shall be submitted to the department:

1. At least 3 weeks prior to the expiration of the current licensing.

2. When an additional office is to be opened.

3. When a new program subject to licensing is to be initiated.

4. When the geographic area served is to be extended.

5. When the address of the agency is to be changed.

6. When the name of the agency is to be changed.

(e) Subsequent applications shall be sent with the following materials:

1. Copies of the annual reports published since the last license was issued.

2. The budget for the current fiscal year and the most recent financial audit.

3. A list of the current members of the board of directors and its committees.

4. The number, names, qualifications and classifications of current staff.

5. A copy of the current staff organization chart.

6. A description of any program review and evaluation and changes in program content and purpose which have occurred since the last license was issued.

7. If the expiring license is provisional, a statement showing whether the requirements on which a provisional license was based have been met, or if not, plans for meeting them.

8. A copy of any revisions of personnel practices that have been made since the last license was issued.

9. Upon the request of the department, a copy of the current staff development and in-service training plan.

(f) A written amendment to the license shall be secured from the department by the board of directors prior to any changes in the conditions of the current license.

(g) When a license is granted, the board shall display the certificate of license in a prominent place in the agency.

(4) FINANCING. (a) The board, with the executive, shall be responsible for the safety and judicious use of the funds of the agency. Policies and practices shall be in accord with sound budgeting, disbursement and audit control procedures.

(b) Each agency shall:

1. Have sufficient funds assured to carry a new agency through its first year of operation and be able to furnish evidence to that effect.

2. Have a sound plan of financing to assure sufficient funds to enable it to carry out its defined purposes and to provide proper care for children, as required by the administrative rules relating to licensing child placing agencies.

3. Provide for annual audit of all accounts by a certified public accountant who is not in the employ of the agency nor a member of the board.

4. On request, provide the department with financial records or financial statements.

(c) The financial operation of the agency shall be on the basis of an annual budget approved by the board. This budget shall reflect anticipated expenditures and sources of income.

History: Cr. Register, August, 1957, No. 20, eff. 9-1-57; r. and rec. Register, September, 1970, No. 177, eff. 4-1-71.

PW-CY 40.42 Personnel administration. (1) PERSONNEL POLICIES.

(a) Each agency shall have a written statement of personnel practices adopted by the board. The board shall review personnel practices at least every 2 years.

1. The following items shall be included in personnel practices and shall be submitted to the department for approval with the original application:

a. Job specifications for all positions of 6 months or longer duration in the agency.

b. Staff pattern. There shall be staff sufficient in number and qualifications for the scope of the agency's services.

2. There shall be written policy statements available to all employees and made known to each employee at the time of employment including:

a. The method of wage adjustments.

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- b. Retirement program.
- c. Health and other insurance programs.
- d. Vacation, sick leave, holidays and leaves of absence.
- e. Probationary status.
- f. Termination procedures.
- g. Agency chain of command.
- h. Grievance procedures.
- i. Employment outside the agency.
- j. For the specific job classification for which application is being made:

- 1) Compensation
- 2) Hours of work
- 3) Job specifications
- 4) Performance evaluations

(b) A personnel record shall be maintained for each staff member and be available to authorized licensing staff. The record shall include:

- 1. Employment application showing qualifications and experience.
- 2. Statements from previous employers or personal references.
- 3. Dates of employment.
- 4. Reports of job performance, if any.
- 5. Medical reports, if pertinent.
- 6. When the employee terminates employment, the dates and the reasons for separation.

(2) PERSONNEL. (a) *General qualifications.* 1. All employees shall have the ability and emotional stability to carry out their assigned duties.

a. Character references from at least 2 people and references from previous employers within the last 5 years must be obtained for prospective employees.

b. References may be documented either by letter or verifications in the record of verbal contact giving dates, person making the contact and persons contacted and the contact content.

c. The agency shall review and investigate application information carefully to determine whether employment of the individual is in the best interests of children under its care.

(b) *Administrative staff.* 1. An executive or administrator shall be employed who shall:

a. Possess a knowledge of child welfare services and a demonstrated actual or potential administrative skill and leadership.

b. Be a graduate of a college or university with a minimum of 15 graduate credits in the social sciences.

c. Have at least 2 years experience in an administrative or supervisory capacity.

2. The executive's duties in administering the agency shall include:

a. Responsibility to the board for satisfactory management.

b. Keeping the board informed of the program of the agency.

c. Interpreting and implementing recognized standards of child welfare.

d. Preparing and presenting the annual budget for discussion and approval.

e. Responsibility for the operation of the program of child welfare in employment, supervision and discharge of staff.

3. If the executive also functions as casework supervisor he shall meet the additional requirements for that classification.

4. There shall be a qualified staff person to whom authority is delegated in the absence of the executive.

(c) *Social service staff.* 1. If a *director of social services* is employed, he shall have a master's degree from an accredited school of social work and a minimum of 2 years of post master's degree social work experience in a supervisory capacity supplemented by or including experience in family or child welfare.

2. A *casework supervisor* shall have a master's degree in social work or its equivalent and have a minimum of 2 years of supervised experience in family or child welfare.

3. An *advanced social worker* shall meet one of the following:

- a. A master's degree in social work, or
- b. One year of graduate work in an accredited graduate school of social work or its equivalent and at least 2 years supervised experience in family or child welfare, or
- c. College graduation and at least 3 years of supervised experience in family and child welfare with 12 graduate credits in social work plus approved in-service training.

At least 50% of the social worker staff shall be in the advanced social work category.

4. *The social worker.* College graduates may be employed who do not have the foregoing training and experience. They shall have a minimum of 15 hours in the social sciences and within 2 years of employment have completed an approved in-service training program.

5. Persons who do not have qualifications for social worker but who have a liking for and an interest in working with people may assist the social services staff with certain functions. Employees in this classification must have qualified supervision. They shall not assume the full responsibilities and duties normally assigned to a social worker.

6. *Consultant services.* The agency shall provide consultant services as required to meet the needs of the children. Consultants shall meet the standards of their professional groups.

(d) *Volunteers.* 1. If volunteers are used, the agency shall assign an appropriate staff member to evaluate and supervise them and to develop a plan for their orientation, training and use.

(3) **STAFF DEVELOPMENT AND IN-SERVICE TRAINING.** (a) The agency shall have within one year of original licensure, written material concerning the process and content of orientation, staff development and in-service training programs for agency employees.

(b) These programs shall include provision for the development of a working knowledge of these rules as they pertain to individual responsibilities of each employee.

History: Cr. Register, August, 1957, No. 20, eff. 9-1-57; r. and recr. Register, September, 1970, No. 177, eff. 4-1-71.

PW-CY 40.43 Social services. (1) **GENERAL REQUIREMENTS.** (a) The agency shall provide services to children who need and seek its care without discrimination on the basis of race, color, or national origin.

(b) Each agency shall:

1. Adopt written intake policies.

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2. Secure and record information which substantiates the planning for the child.

3. Accept a child for placement only when legally authorized to do so.

4. Obtain from the parent or guardian of every child accepted for care a written authorization for emergency surgical care, for necessary vaccinations and immunizations, for routine medical examinations and treatment.

(c) The agency shall substantiate that continuing social services to the child, to his parents and to the foster parents on a planned basis are provided while the child is in placement.

(d) Adopt written policies for placement and discharge from service.

(e) When the agency is terminating its responsibility to the child release the child only to a person or agency authorized to accept the child.

(f) Requirements to be met by licensee in order to place children in boarding care. A child welfare agency with authority to place children in licensed foster homes and to license foster homes (section 48.61 (3) and (7), Wis. Stats.) shall:

1. Have a social service supervisory staff of one or more persons who meet the requirements of section PW-CY 40.42 (2) (c) 2 and have at least one year's experience in the study of foster homes, licensing, placement and supervision of foster care.

2. License only homes which meet the foster home rules.

3. Place children only in homes which meet the foster home rules.

4. Place and/or supervise a minimum of 5 children a year in foster care, exclusive of adoptive placement.

5. Assign the responsibility for supervision to one staff person when there are fewer than 20 children in foster care.

6. Place no child under the care of the agency in the home of a staff person employed by the agency or a member of the board of directors. This does not pertain to persons whose only employment by the agency is in the foster parent role.

7. Maintain individual foster home records for each home used by the agency which includes signed applications and agreements.

8. Establish an administrative plan for periodic review of children in boarding home placement.

(g) Requirements to be met by licensee in order to accept guardianship. A child welfare agency with authority to accept guardianship and place children for adoption (sections 48.61 (5), 48.43 (1) (am), and 48.70 (4), Wis. Stats.) shall:

1. Furnish evidence of providing a service to cover a geographic area with no less than a 50 mile radius or 200,000 population base.

2. Have a social service supervisory staff of one or more persons available, who, in addition to meeting the requirements of section PW-CY 40.42 (2) (c) 2, have one year's experience in the study, placement, and postplacement services in an agency authorized to place children for adoption.

3. Place at least 15 children in adoption a year.

4. If fewer than 20 children are under supervision or placed within one year, assign this responsibility to one staff person.

5. Assign to one worker no less than 5 placements a year.

6. Accept applicants only from the geographical area covered by the license.

7. Set intake policies for the acceptance of children and prospective adoptive families.

8. Establish an administrative plan for a periodic review of children in the agency's guardianship.

9. When a child is determined ready for placement he shall be placed within 3 months by the guardianship agency or referred to another agency or resource for placement.

10. Provide postplacement services to the adoptive family for the purpose of effecting a successful integration of the child into the family.

11. Maintain a record of the study of the adoptive home and of the placement and postplacement services.

(2) PROGRAM OF CHILD CARE. (a) *Education*. 1. The agency shall be responsible for providing opportunities for academic and vocational training.

(b) *Health care*. The agency shall:

1. See that each child has a thorough health appraisal and a rehabilitative health program as indicated.

2. Have on file the written authorization from parent or guardian as required in section PW-CY 40.43 (1) (b) 4.

3. Provide for consultation to staff in the areas of medical, dental, psychological and psychiatric need.

4. Obtain, when needed, psychiatric and psychological services including tests and examinations.

(c) *Admission examination—health qualifications*. 1. Each child shall have a physical examination from a qualified physician within 90 days prior to the initial acceptance for placement. If the foregoing has not occurred, the examination shall be given within 48 hours after acceptance.

a. Prior to placement the child shall have been observed by a person competent to recognize common signs of communicable diseases.

b. It shall be determined that each child is adequately immunized against the following diseases:

- 1) Small pox
- 2) Diphtheria
- 3) Polio
- 4) Tetanus
- 5) Whooping cough (if under 5 years)
- 6) Measles (rubeola)
- 7) German measles (rubella)
- 8) Mumps

c. Each child shall have been given a tuberculin test, and chest X-ray if indicated, within 6 months prior to acceptance.

d. All medical reports, i.e., physical examinations, tests and recommendations shall be in writing and filed with the agency.

(d) *Medical examinations*. 1. Each agency shall provide for each child annually a health examination covering the areas included on a department prescribed form.

(e) *Medical care.* 1. Each agency shall have a plan and make provisions for prompt treatment in illnesses and for carrying out corrective measures and treatment of remedial defects or deformities.

2. Procedures for hospitalization shall be established.

(f) *Dental care.* 1. Each agency shall provide for regular dental examinations and treatment including necessary prophylaxis, repairs and extractions.

2. Each child over 3 shall have a thorough dental examination as soon as practical after acceptance for care and at intervals thereafter not exceeding 6 months after the last examination or completion of treatment.

(g) *Eye care.* 1. Children who are in need of glasses shall have refractions at a minimum of once every 2 years and shall be supplied with glasses as required.

(h) *Special care.* 1. Foster parents shall be informed of the expected precautions to be taken in the care of sick children and in the handling of medicines and prescriptions.

(i) *Medical records.* 1. A health record shall be maintained for each child covering the following health history:

a. Pre-natal and birth history.

b. Developmental history.

c. Previous illness, injuries and surgery.

d. Immunizations and tests.

e. Social, emotional and environmental history of the child.

f. Height and weight record.

g. Health history of the child's family including mental, or emotional problems.

(j) *Clothing.* 1. The agency shall furnish each child with clothing which is individually selected and fitted, appropriate to the season and comparable to that of other children in the community.

History: Cr. Register, August, 1957, No. 20, eff. 9-1-57; r. and rec. Register, September, 1970, No. 177, eff. 4-1-71.

PW-CY 40.44 Records and reports. (1) GENERAL REQUIREMENTS. Each agency shall maintain records and submit reports prescribed by the department. Authorized representatives of the department shall have access to all records pertinent to licensing.

(2) RECORDS. (a) Each agency shall maintain:

1. A permanent register with identifying information of all children accepted for service or placement.

2. Individual case records for each child served and his family.

a. These records shall contain vital statistics information for the child, his parents and siblings, source of referral, date of acceptance and terms.

b. The original social study and investigation.

c. Legal documents pertinent to legal custody and guardianship such as birth records and court reports.

d. Written agreements with parents, guardians or legal custodians. (The consent and authorization for necessary medical or surgical care may be kept separate in the health record.)

e. School reports.

f. Recording of progress of casework and/or treatment plan with child and family.

3. Individual foster home records for each foster home used by the agency which include signed applications and agreements.

4. Individual records of studied adoptive applicants.

5. Personnel records.

6. Financial reports and audits.

(b) All records shall be kept in a safe place protected from fire damage, theft and unauthorized scrutiny.

(3) REPORTS. (a) Each agency shall submit statistical reports as required by the department under section 48.67 (3), Wis. Stats.

(b) Each agency shall make a report to the department within 48 hours after the occurrence of an unusual incident such as a major fire which is defined as one which requires the services of a fire department, or the death or serious injury of a child, a serious injury being defined as one which requires the hospitalization of the child.

History: Cr. Register, August, 1957, No. 20, eff. 9-1-57; r. and recr. Register, September, 1970, No. 177, eff. 4-1-71.