

Chapter PW-CY 40

CHILDREN AND YOUTH

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PW-CY 40.04 History: 1-2-56; r. and recr. Register, October, 1961, No. 70, eff. 11-1-61; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.05 History: 1-2-56; r. and recr. Register, October, 1961, No. 70, eff. 11-1-61; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.06 History: 1-2-56; r. and recr. Register, October, 1961, No. 70, eff. 11-1-61; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.07 History: 1-2-56; am. Register, June, 1956, No. 6, eff. 7-1-56; r. and recr. Register, October, 1961, No. 70, eff. 11-1-61; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.08 History: 1-2-56; r. and recr. Register, October, 1961, No. 70, eff. 11-1-61; am. (1) (a) 1., 9., and (3) (a), Register, July 1966, No. 127, eff. 8-1-66; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.09 History: 1-2-56; r. and recr. Register, October, 1961, No. 70, eff. 11-1-61; r. Register, August, 1970, No. 176, eff. 3-1-71.

Register, September, 1970, No. 177
Public Welfare

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 rec. Register, October, 1961, No. 70, eff. 11-1-61; r. and rec. 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.

(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. 3-1-66; 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.