

## Chapter HFS 46

## GROUP DAY CARE CENTERS FOR CHILDREN

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Note: Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, January, 1997, No. 493. Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1998, No. 513.

**HFS 46.01 Authority and purpose.** This chapter is promulgated under the authority of s. 48.67, Stats., to establish licensing requirements under s. 48.65, Stats., for group day care centers for children. The purpose of this chapter is to protect the health, safety and welfare of children being cared for in group day care centers.

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97.

**HFS 46.02 Applicability.** (1) INCLUDED AND EXCLUDED CARE ARRANGEMENTS. This chapter applies to all group day care centers, whether the facility in which the child care and supervision are provided is known as a day care center, nursery school or preschool, head start or school-age child care program, or by any other designation, but it does not apply to the following:

(a) Care and supervision of children in a program, including religious education classes, which operates no more than 4 hours a week.

(b) Group lessons to develop a talent or skill, such as dance or music lessons, social group meetings and activities and group athletic activities.

(c) Care and supervision while the child's parent is on the premises and is engaged in shopping, recreation or other non-work activities.

(d) Care and supervision provided at the site to the child of a recipient of aid to families with dependent children (AFDC) under ch. DWD 11 who is involved in orientation, enrollment under ch. HSS 206 or initial assessment prior to the development of an employability plan in a job opportunities and basic skills (JOBS) program or the child care is provided where parents are provided training or counseling.

(e) Seasonal programs of 10 days or less duration in any 3-month period, including day camps, vacation bible schools and holiday child care programs.

(f) Care and supervision in emergency situations.

(g) Care and supervision while the child's parent is employed on the premises if the child receives care and supervision for no more than 3 hours a day.

(2) EXCEPTION TO A REQUIREMENT. The department may grant an exception to a requirement of this chapter when it is demonstrated to the satisfaction of the department that granting the exception will not jeopardize the health, safety or welfare of any child served by the center. A request for an exception shall be in writing, shall be sent to the department and shall include justification for the requested action and a description of any alternative provision planned to meet the intent of the requirement.

Note: A request for an exception to a requirement of this chapter should be sent to the licensing representative at the appropriate field office of the Department's Division of Children and Family Services. See Appendix A for addresses of the field offices.

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97.

**HFS 46.03 Definitions.** In this chapter:

(1) "Administrator" means the person responsible to the licensee for management of the group day care center.

(2) "Assistant child care teacher" means a child care worker who works under the supervision of a child care teacher and meets the qualifications under s. HFS 46.05 (1) (c).

(3) "Care" means providing for the safety and the developmental needs of a child in a group day care center.

(4) "Center director" means the person responsible to the licensee for the supervision of the center's program for children and for the supervision of the center's staff and who meets the qualifications of s. HFS 46.05 (1) (c).

(5) "Child care teacher" means a child care worker who plans, implements and supervises the daily activities for a designated group of children and meets the qualifications under s. HFS 46.05 (1) (d).

(6) "Child care worker" means a child care teacher or assistant child care teacher in a group day care center.

(7) "Compensation" means salary or wages or other material consideration, such as gifts or compensatory labor, received for the care and supervision of children. "Compensation" does not include payments made by 2 or more parents who have entered into a cooperative arrangement for the exchange of child care and supervision when payments are for the actual cost of equipment, supplies or facilities incidental to the operation of the cooperative arrangement.

(8) "Complaint" means an allegation that a provision of this chapter or of ch. 48, Stats., has been violated.

(9) "Department" means the Wisconsin department of health and family services.

(10) "Division" means the department's division of children and family services.

(11) "Field trip" means any experience a child has away from the premises of the center while under the care of center staff.

(12) "Group" means a specific number of children who have a regularly assigned child care worker and who are cared for in the same self-contained room or area at the center.

(13) "Group day care center" or "center" means a facility where a person other than a relative or guardian provides care and supervision for 9 or more children for less than 24 hours a day for compensation.

(14) "HealthCheck provider" means a provider of health assessment and evaluation services eligible to be certified under s. HFS 105.37 (1) (a).

(15) "Infant" means a child under one year of age.

(16) "Institution of higher education" means an educational institution which meets all of the following criteria except, in the case of a business school or technical institution, par. (c):

(a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(b) Is legally authorized to provide a program of education beyond secondary education;

(c) Provides an education program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward that degree; and

(d) Is accredited by a nationally recognized accrediting agency or association or, if not accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are accredited, for credit on the same basis as if transferred from an institution that is accredited.

(17) "Licensee" means the corporation, individual, partnership or non-incorporated association or cooperative which has legal and financial responsibility for the operation of a day care center.

(18) "Licensing representative" means a department employee responsible for licensing group day care centers.

(19) "Night care center" means a group day care center which operates during any period of time between 9:00 p.m. and 5:00 a.m.

(20) "Parent" means either "parent" as defined in s. 48.02 (13), Stats., or "guardian" as defined in s. 48.02 (8), Stats.

(21) "Parent cooperative" means a center organized by parents for their preschool children in which the parents have decision-making authority to establish and change policy, program and personnel practices.

(22) "Parochial or private school" means an educational program which meets all the criteria specified under s. 118.65 (1), Stats., or as determined by the superintendent of public instruction under s. 118.167, Stats.

(23) "Physician" has the meaning prescribed in s. 448.01 (5), Stats.

(24) "Physician assistant" has the meaning prescribed in s. 448.01 (6), Stats.

(25) "Premises" means the tract of land on which a center is located, including all buildings and structures on that land.

(26) "Regularly assigned child care worker" means a child care worker who is assigned to a specific group of children in a self-contained room or area for not less than 5 hours per day.

(27) "School-age child" means a child 5 years of age or older who is enrolled in a public school or a parochial or other private school.

(28) "Self-contained room or area" means a room separated by permanent walls or an area separated by permanent or portable partitions or dividers acting as a visual barrier for children which is reserved for a group of children and contains the indoor equipment and furnishings required for that group.

(29) "Sleeping bag" means a padded fabric bag that is closed or capable of being closed on three sides.

(30) "Supervision of children" means guidance of the behavior and activities of children for their health, safety and well-being by child care workers who are within sight and sound of the children.

(31) "Supervision of staff" means guidance of the behavior and activities of center employees which may include provision of instructions to carry out activities for limited periods of time out of sight or hearing of the supervisor.

(32) "Toddler" means a child at least one year of age but less than 2 years of age.

(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, as recommended by the U.S. public health services centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

(34) "Volunteer" means a person who agrees to give time, without compensation, to transport children to and from a group day care center or to work with children in a group day care center.

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97.

**HFS 46.04 Operational requirements. (1) TERMS OF A LICENSE.** (a) The number of children at a group day care center at any one time may not exceed the number for which the center is licensed.

(b) The age of children served by a center may not be younger or older than the age range specified in the license.

(c) The hours, days and months of a center's operation may not exceed those specified in the license.

(2) ADMINISTRATION. A group day care center licensee shall do all of the following:

(a) Comply with all laws governing the facility and its operation.

(b) Comply with all requirements of this chapter.

(c) Ensure that all information provided to the department is accurate.

(d) If residing in another state, designate in writing, as part of the application under s. HFS 46.12 (2), a Wisconsin resident who is responsible on behalf of the licensee for ensuring compliance with all requirements of this chapter.

(e) Meet, upon request of the department, with a licensing representative on matters pertaining to the license.

(f) Complete all application forms and pay all fees and forfeitures due and owing prior to receiving a license.

(g) Submit to the department a certificate of insurance reflecting current dates of coverage for all of the following:

1. General liability insurance which provides coverage with limits of not less than \$25,000 for each person and total limits of \$75,000 for each occurrence.

2. Vehicle liability insurance, when transportation is provided by the center, with minimums no less than those specified in s. 121.53, Stats.

3. Non-owned vehicle liability insurance when transportation is provided in vehicles not owned by the center, excluding public transportation vehicles and chartered vehicles, with minimums no less than those specified in s. 121.53, Stats.

(h) Develop, submit to the department for review and implement written policies on the following subjects:

1. Fee payments and refunds.

2. Personnel, including job descriptions, hours of work, lunch and break times, holidays, vacations, sick leaves, leaves of absence, probationary periods, performance evaluations, grievance procedures and the disciplinary process.

3. Discharge of enrolled children.

(i) Develop, submit to the department for approval and implement as approved written policies and plans, consistent with the requirements of this chapter, on the following subjects:

1. Admission.

2. Health care.

3. Education.

4. Nutrition.

5. Child guidance.

6. Action to be taken in the event of a fire or tornado.

7. Continuing education of staff.

8. Orientation of new staff and volunteers.

Note: Under the state public accommodation law, s. 106.04, Stats., as well as federal statutes and regulations related to use of federal funding, and some local anti-discrimination ordinances, denying admission on the basis of race, handicap, religion or certain other characteristics may be illegal.

(j) Ensure that all published statements such as brochures and publicity releases are accurate.

(k) Display the day care license near the entrance or in some other conspicuous area of the center that is accessible to the public.

(L) Post next to the day care center license any rule violations cited by the department in its most recent inspection and any no-

tice of enforcement action including but not limited to license revocation or nonrenewal.

(m) Ensure that any action, by commission or omission, or any condition or occurrence relating to the operation or maintenance of the day care center does not adversely affect the health, safety or welfare of any child under the care of the licensee.

**(3) REPORTS.** The licensee shall report to the department:

(a) Any accident resulting in the death of a child while in the care of the center or a serious injury requiring professional medical treatment such as but not limited to a broken bone, a burn, a concussion, a wound requiring stitches, or the ingestion of poison while the child is in the care of the center. The report shall be received by the department within 48 hours after the occurrence.

(b) Any damage to the premises which may affect compliance with this chapter, within 24 hours after the occurrence.

(c) A change in the board chairperson, administrator or center director of a day care center, within 30 days after the change.

(d) A change of any program service, at least 5 days prior to the change.

(e) Statistical data required by the department on forms provided by the department.

(f) The plan of correction for cited violations of this chapter or ch. 48, Stats., on a form provided by the department which is approved by the licensing representative and is received by the specified date.

(g) Any convictions, pending charges or other offenses of the licensee, day care center employes, or other persons subject to criminal record checks which could potentially relate to the care of children at the center or activities of the center.

**(4) PARENTS.** (a) The center administrator shall notify the parents of an enrolled child of all of the following:

1. When their child has been exposed to a diagnosed or suspected communicable disease reportable under ch. HFS 145 and transmitted through normal contact.

2. Immediately, if the child becomes ill or is injured seriously enough to require professional medical treatment.

3. When they pick up the child or when the child is delivered, if the child sustains a minor injury.

4. Of the date, time and destination of any field trip which requires the use of a vehicle.

(b) The center shall permit parents to visit and observe at any time during the center's hours of operation, unless access is prohibited or restricted by court order.

(c) The center shall make opportunities available at least twice each year for parent and staff communication regarding the child's adjustment to the program, and the child's growth and development.

(d) If religious training is part of the center program, reference to the religious component shall be included in any publicity and in the education policy. This information shall be shared with parents.

(e) The center shall provide a summary of this chapter to the parents of each child upon the child's enrollment.

Note: Copies of a summary of this chapter may be obtained from the Child Care Information Center, 317 Knutson Drive, Madison, Wisconsin 53704.

(f) A copy of this chapter shall be posted or available in an area of the center where parents are likely to see it.

(g) A copy of the child care policies of the center shall be made available to the parents in an area of the center accessible to parents. Personnel policies need not be included.

**(5) STAFF RECORDS.** (a) The licensee shall maintain a file on each employe which is available for examination by the licensing representative at the center. An employe's file shall include all of the following:

1. The employe's name, address, date of birth, education, position, previous work experience in child care including reason for leaving previous positions, and the name, address and telephone numbers of persons to be notified in an emergency.

2. A notarized background character verification form prescribed and provided by the department affirming that the employe has not been convicted or is not the subject of a pending criminal charge as specified in s. HFS 46.12 (7) (a) 1., 2. or 4., or indicating the written approval of the department when the criminal record or pending charge has been reviewed by the department.

3. A criminal records check from the Wisconsin department of justice on the employe, upon hire and subsequently at intervals specified in s. HFS 46.12 (3) (a) 2.

4. The physical examination report required under s. HFS 46.05 (1) (j) 1.

5. Documentation of the employe's educational qualifications for the position, and of orientation and continuing education received as required under s. HFS 46.05 (2).

(b) Adults who work at the center and who are compensated from sources other than the center, and student teachers, shall meet the staff record requirements specified in par. (a) 1., 2. and 3.

**(6) CHILDREN'S RECORDS.** (a) The licensee shall maintain a current written record at the center on each child enrolled and shall make the record available to the licensing representative on request. Each record shall include all of the following:

1. Enrollment information consisting of:

a. The name and birthdate of the child.

b. The full names of the child's parents:

c. The child's home address and telephone number.

d. An address and telephone number where a parent can be reached while the child is in care.

e. The name, address, telephone number and relationship to the child of a person to be notified in an emergency when a parent cannot be reached immediately.

f. The name, address and telephone number of a physician or medical facility caring for the child.

g. The names, addresses and telephone numbers of persons other than a parent authorized to call for the child or to accept the child who is dropped off.

h. The child's first day of attendance at the center.

i. For an infant or toddler, a current statement from the parent about the infant or toddler's habits of eating, sleeping, toileting and communication, and specific techniques which appear to comfort the child.

2. Written consent from the parent for emergency medical care or treatment.

3. Authorization from the parent to transport the child to and from the center, when transportation is provided.

4. Authorization from the parent for the child to participate in and be transported for field trips and other activities, if these are part of the center's program.

5. Authorization from the parent outlining the plan for a school-age child to come to the center from school, home or other activities and to go from the center to school, home or other activities.

6. Documentation of each child's health and immunization history on a form provided by the department.

7. Specific informed written consent from the parent for each incident of participation by a child in any research or testing project.

(b) The licensee shall maintain a written record of the daily attendance and date of birth of each child for the length of time the child is enrolled in the program. The hours of arrival and depart-

ture for each child shall be recorded if hours of arrival and departure vary among children.

(c) The licensee shall maintain a log or logs for medication and injury and shall record daily any injuries received by a child or medication dispensed to a child, as follows:

1. The log shall be in a book with stitched binding with pages that are lined and numbered. The pages may not be removed or lines skipped.

2. Entries shall be made in ink on the date of occurrence and shall be dated and signed or initialed by the person making the entry.

(7) **CONFIDENTIALITY.** The licensee is responsible for the compliance of day care center employes and volunteers with s. 48.78, Stats., and this subsection. The licensee shall ensure that:

(a) Persons having access to children's records do not discuss or disclose personal information regarding the children and facts learned about the children and their relatives. This does not apply to:

1. The parent or a person authorized in writing by the parent to receive the information.

2. Any agency assisting in planning for the child when informed written parental consent has been given.

3. Agencies authorized under s. 48.78, Stats.

(b) A parent, upon request, has access to all records and reports maintained on his or her child.

(c) All records required by the department under this chapter for licensing purposes are available to the licensing representative.

(8) **REPORTING CHILD ABUSE.** (a) A licensee, employe or volunteer at a day care center who knows or has reasonable cause to suspect that a child has been abused or neglected as defined in s. 48.981 (1), Stats., shall immediately contact the county department of social services or human services or a local law enforcement agency, as required by s. 48.981, Stats.

(b) The licensee, shall ensure that every employe and volunteer who comes in contact with the children at the day care center has received training in all of the following:

1. Child abuse and neglect law.

2. How to identify children who have been abused or neglected.

3. The process for reporting known or suspected cases of child abuse or neglect.

**Note:** Failure of the licensee to report known or suspected child abuse or neglect does not lessen the legal duty of a child care employe to report known or suspected cases of child abuse or neglect. Information related to child abuse may be obtained from the Child Care Information Center, 317 Knutson Drive, Madison, Wisconsin 53704.

**Note:** Copies of forms mentioned in this section may be obtained from the Forms Center, Division of Children and Family Services, P.O. Box 7851, Madison, Wisconsin 53707-7851.

**History:** Cr. Register, January, 1997, No. 493, eff. 8-1-97.

**HFS 46.05 Personnel. (1) RESPONSIBILITIES AND QUALIFICATIONS OF STAFF.** (a) **Definitions.** In this subsection:

1. "Full day center" means a center that operates more than 5 consecutive hours in a day.

2. "Part day center" means a center that operates 5 or fewer hours in a day.

(b) **Administrator.** 1. The licensee may act as administrator of a group day care center. If the licensee does not act as administrator, the licensee shall designate a person or persons to be the administrator or administrators of the center. The administrator shall be responsible for the center's management, including personnel, finance, physical plant and the day to day operation of the center.

2. An administrator shall:

a. Be at least 21 years of age.

b. Have completed high school or its equivalent as determined by the Wisconsin department of public instruction.

3. Before a person assumes the position of administrator, the person shall have both of the following:

a. One year of experience as a manager or satisfactory completion of one credit or non-credit department approved course in business or program administration.

b. One year of experience as a center director or child care teacher in a licensed day care center or kindergarten or satisfactory completion of one non-credit department-approved course or one course for credit in early childhood education or its equivalent.

4. If the board of a parent cooperative is responsible for management of a center, the requirements under subds. 2., and 3., do not apply.

(c) **Center director.** 1. The licensee may act as the center director. If the licensee does not act as center director, the licensee shall designate a person or persons to be the center director for each center location.

2. The center director shall be responsible for the supervision of the planning and implementation of the center's program for children, the supervision of staff at the center, staff meetings and orientation and continuing education for the staff.

3. A center director shall be employed on one of the following schedules:

a. At least 10 hours a week for the exclusive purpose of carrying out center director responsibilities in a single full day center location licensed for 50 or fewer children.

b. At least 20 hours a week for the exclusive purpose of carrying out center director responsibilities in a single full day center location licensed for 51 or more children.

4. A center director shall:

a. Be at least 21 years of age.

b. Have completed high school or its equivalent as determined by the Wisconsin department of public instruction.

5. Before a person assumes the position of center director for a center licensed to serve 50 or fewer children, the person shall have completed or obtained, as shown in Table 46.05-A, one of the following:

a. Prior to assuming the position, satisfactory completion of 2 non-credit department-approved courses in early childhood education and 80 working days experience as a full-time child care teacher or assistant child care teacher or 120 working days experience as a half-time child care teacher or assistant child care teacher providing direct child care in a licensed day care center, a kindergarten or an early childhood program approved by the department.

b. Prior to assuming the position, 2 years of documented credit from an institution of higher education with at least 3 credits in early childhood education or its equivalent and 80 working days experience as a full-time child care teacher or assistant child care teacher or 120 days experience as a child care teacher or assistant child care teacher providing direct child care in a licensed day care center, a kindergarten or an early childhood center approved by the department.

c. Prior to assuming the position, 2 courses for credit in early childhood education or its equivalent from an institution of higher education prior to assuming the position and 80 working days of experience as a full-time child care teacher or assistant child care teacher or 120 working days of experience as a half-time child care teacher or assistant child care teacher providing direct child care in a licensed day care center, a kindergarten or an early childhood program approved by the department.

d. Prior to assuming the position, a one year child care diploma from an institution of higher education and 80 working days of experience as a full-time child care teacher or assistant child

care teacher or 120 working days of experience as a half-time child care teacher or assistant child care teacher providing direct child care in a licensed day care center, a kindergarten or an early childhood program approved by the department.

e. Prior to assuming the position, one year of an associate of arts degree in child care from an institution of higher education and 80 working days of experience as a full-time child care teacher or assistant child care teacher or 120 working days of experience as a half-time child care teacher or assistant child care teacher providing direct child care in a licensed day care center, a kindergarten or an early childhood program approved by the department.

f. Prior to assuming the position, child development associate (CDA) credentials issued by the council for early childhood professional recognition and 80 working days of experience as a full-time child care teacher or assistant child care teacher or 120 working days of experience as a half-time child care teacher or assistant child care teacher providing direct child care in a licensed day care center, a kindergarten or an early childhood program approved by the department.

g. Prior to assuming the position, 30 credits from an institution of higher education, including 2 courses for credit in early childhood education or its equivalent and 80 working days of experience as a full-time child care teacher or assistant child care teacher or 120 working days of experience as a half-time child care teacher or assistant child care teacher and child care teacher or assistant child care teacher providing direct child care as a child care worker or volunteer in a licensed day care center, a kindergarten or an early childhood program approved by the department.

h. Prior to assuming the position, a certificate from the American montessori society or association montessori international and 80 working days of experience as a full-time child care teacher or assistant child care teacher or 120 working days of experience as a half-time child care teacher or assistant child care teacher providing direct child care in a licensed day care center, a kindergarten or an early childhood program approved by the department.

i. Prior to assuming the position, a license from the Wisconsin department of public instruction to act as a pre-kindergarten or early childhood exceptional educational needs teacher and 80 working days of experience as a full-time child care worker or 120 working days of experience as a half-time child care worker and experience as a child care teacher or assistant child care teacher providing direct child care as a child care worker or volunteer in a licensed day care center, a kindergarten or an early childhood program approved by the department.

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| 3. | 2 courses for credit in early childhood education or its equivalent prior to employment and within 18 months, one additional course for credit.    | 80 working days as a full-time child care teacher or assistant child care teacher or 120 working days as a half-time child care teacher or assistant teacher. |
| 4. | One year child care diploma from an institution of higher education.   | 80 working days as a full-time child care teacher or assistant child care teacher or 120 working days as a half-time child care teacher or assistant teacher. |
| 5. | One year of an associate of arts degree in child care from an institution of higher education.   | 80 working days as a full-time child care teacher or assistant child care teacher or 120 working days as a half-time child care teacher or assistant teacher. |
| 6. | Child development associate (CDA) credentials issued by the council for early childhood professional recognition.                                  | 80 working days as a full-time child care teacher or assistant child care teacher or 120 working days as a half-time child care teacher or assistant teacher. |
| 7. | 30 credits from an institution of higher education, including 2 courses for credit in early childhood education.                                   | 80 working days as a full-time child care teacher or assistant child care teacher or 120 working days as a half-time child care teacher or assistant teacher. |
| 8. | License from the Wisconsin department of public instruction to act as a pre-kindergarten or early childhood exceptional educational needs teacher. | 80 working days as a full-time child care teacher or assistant child care teacher or 120 working days as a half-time child care teacher or assistant teacher. |
| 9. | Certificate from American montessori society or association montessori international.  | 80 working days as a full-time child care teacher or assistant child care teacher or 120 working days as a half-time child care teacher or assistant teacher. |

TABLE 46.05-A

**EDUCATION AND EXPERIENCE QUALIFICATIONS FOR THE DIRECTOR OF A CENTER LICENSED TO SERVE UP TO 50 CHILDREN**

Post-Secondary Education Including Degree, License, Credentials or Certificate	Experience in A Licensed Day Care Center Or a Kindergarten
1. 2 non-credit department-approved courses in early childhood education prior to employment.	80 working days as a full-time child care teacher or assistant child care teacher or 120 working days as a half-time child care teacher or assistant teacher.
2. 2 years of credit from an institution of higher education with at least 3 credits in early childhood education or its equivalent.	80 working days as a full-time child care teacher or assistant child care teacher or 120 working days as a half-time child care teacher or assistant teacher.

6. Before a person assumes the position of center director for a center licensed to serve 51 or more children, the person shall have completed or obtained, as shown in Table 46.05-B, one of the following:

a. Prior to assuming the position, 2 years of experience as a child care teacher or center director in a licensed day care center, a kindergarten or an early childhood program approved by the department and satisfactory completion of 4 non-credit department-approved courses in early childhood education or its equivalent.

b. Prior to assuming the position, 2 years of experience as a child care teacher or center director in a licensed day care center, a kindergarten or an early childhood program approved by the department and 2 years of documented credit at an institution of higher education with at least 12 credits in early childhood education or its equivalent.

c. Prior to assuming the position, 2 years of experience as a child care teacher or center director in a licensed day care center, a kindergarten or an early childhood program approved by the de-

partment and 4 courses for credit in early childhood education or its equivalent from an institution of higher education.

d. Prior to assuming the position, 2 years of experience as a child care teacher or center director in a licensed day care center, a kindergarten or an early childhood program approved by the department and an associate of arts degree in child care from an institution of higher education.

e. Prior to assuming the position, 2 years of experience as a child care teacher or center director in a licensed day care center, a kindergarten or an early childhood program approved by the department and 60 credits from an institution of higher education, including 4 courses for credit in early childhood education or its equivalent.

f. Prior to assuming the position, 2 years of experience as a child care teacher or center director in a child care center, a kindergarten or an early childhood program approved by the department and a license from the Wisconsin department of public instruction to act as a pre-kindergarten or early childhood exceptional needs teacher.

a. The person worked for at least 80 days as a full-time child care worker or 120 days as a half-time worker or volunteer in a licensed day care center, a kindergarten or an early childhood program approved by the department and satisfactorily completed 2 non-credit department-approved courses in early childhood education or its equivalent.

b. The person worked at least 80 days as a full-time worker or 120 days as a half-time worker or volunteer in a licensed day care center, a kindergarten or an early childhood program approved by the department and has 2 years of documented credit from an institution of higher education with at least 3 credits in early childhood education.

c. The person worked for at least 80 days as a full-time child care worker or 120 days as a half-time worker or volunteer in a licensed day care center, a kindergarten or an early childhood program approved by the department or has produced documentation of credit earned for a supervised practicum in a licensed day care center or a kindergarten, and completed 2 courses for credit in early childhood education or its equivalent from an institution of higher education prior to assuming the position.

d. The person worked for at least 80 days as a full-time child care worker or 120 days as a half-time worker or volunteer in a licensed day care center, a kindergarten or an early childhood program approved by the department or completed a student practicum in a child care diploma program and received a one year child care diploma from an institution of higher education.

e. The person worked for at least 80 days as a full-time child care worker or 120 days as a half-time worker or volunteer in a licensed day care center, a kindergarten or an early childhood program approved by the department or completed a credit-bearing supervised practicum in a child care associate of arts degree program and completed one year of a child care associate of arts program from an institution of higher education.

f. The person worked for at least 80 days as a full-time child care worker or 120 days as a half-time worker or volunteer in a licensed day care center, a kindergarten or an early childhood program approved by the department and received a child development associate credential issued by the council for early childhood professional recognition.

g. The person worked for at least 80 days as a full-time child care worker or 120 days as a half-time worker or volunteer in a licensed day care center, a kindergarten or an early childhood program approved by the department and received 30 credits from an institution of higher education, including 2 courses for credit in early childhood education.

h. The person worked for at least 80 days as an assistant child care teacher or 120 days as a half-time assistant child care teacher in a licensed day care center, a kindergarten or an early childhood program approved by the department and the person holds a certificate from the American montessori society or association montessori international.

i. The person worked for at least 80 days as an assistant child care teacher or 120 days as a half-time assistant child care teacher in a licensed day care center, a kindergarten or an early childhood program approved by the department and the person holds a license from the Wisconsin department of public instruction to act as a pre-kindergarten or early childhood exceptional educational needs teacher.

TABLE 46.05-B

**EDUCATION AND EXPERIENCE QUALIFICATIONS FOR THE DIRECTOR OF A CENTER LICENSED TO SERVE 51 OR MORE CHILDREN**

Post-Secondary Education Including Degree, License, Credential Or Certificate	Experience in a Licensed Day Care Center Or a Kindergarten
1. 4 non-credit department-approved courses in early childhood education or its equivalent prior to assuming the position.	2 years as a child care teacher or center director.
2. 2 years of credit from an institution of higher education with at least 12 credits in early childhood education or its equivalent.	2 years as a child care teacher or center director.
3. 4 courses for credit in early childhood education or its equivalent from an institution of higher education.	2 years as a child care teacher or center director.
4. An associate of arts degree in child care from an institution of higher education.	2 years as a child care teacher or center director.
5. 60 credits from an institution of higher education, including 4 courses for credit in early childhood education.	2 years as a child care teacher or center director.
6. License from Wisconsin department of public instruction to act as a pre-kindergarten or early childhood exceptional educational needs teacher.	2 years as a child care teacher or center director.

(d) *Child care teacher.* 1. A child care teacher shall plan, implement and supervise the daily activities for a group of children.

2. A person who is a child care teacher shall be at least 18 years of age and have completed high school or its equivalent as determined by the Wisconsin department of public instruction.

3. Prior to assuming the position, a person hired to be a child care teacher shall be qualified in one of the following ways, as shown in Table 46.05-C:

TABLE 46.05-C  
EDUCATION AND EXPERIENCE QUALIFICATIONS  
FOR A CHILD CARE TEACHER

Post-Secondary Education Including Degree, License, Credential Or Certificate	Experience in a Licensed Day Care Center Or a Kindergarten
1. 2 non-credit department-approved courses in early childhood education.	80 working days as a full-time assistant child care teacher or 120 working days as a half-time assistant child care teacher.
2. 2 years of credit from an institution of higher education with at least 3 credits in early childhood education or its equivalent.	80 working days as a full-time assistant child care teacher or 120 working days as a half-time assistant child care teacher.
3. 2 courses for credit in early childhood education or its equivalent from an institution of higher education.	80 working days as a full-time assistant child care teacher or 120 working days as a half-time assistant child care teacher.
4. One year child care diploma from an institution of higher education.	80 working days as a full-time assistant child care teacher or 120 working days as a half-time assistant child care teacher.
5. One year of an associate of arts degree in child care from an institution of higher education.	80 working days as a full-time assistant child care teacher or 120 working days as a half-time assistant child care teacher.
6. Child development associate credential issued by the council for early childhood professional recognition.	80 working days as a full-time assistant child care teacher or 120 working days as a half-time assistant child care teacher.
7. 30 credits from an institution of higher education, including 2 courses for credit in early childhood education.	80 working days as a full-time assistant child care teacher or 120 working days as a half-time assistant child care teacher.
8. Certificate from American montessori society or association montessori international.	80 working days as a full-time assistant child care teacher or 120 working days as a half-time assistant child care teacher.
9. License from the Wisconsin department of public instruction to act as a pre-kindergarten or early childhood exceptional educational needs teacher.	80 working days as a full-time assistant child care teacher or 120 working days as a half-time assistant child care teacher.

(e) *Assistant child care teacher.*

1. An assistant child care teacher shall work under the supervision of a child care teacher with a group of children.

2. A person hired to be assistant child care teacher shall be qualified in one of the following ways:

a. The person shall be at least 18 years old and have satisfactorily completed one non-credit department-approved course in

early childhood education or completes that training within 6 months after assuming the position.

b. The person shall be at least 18 years old and have satisfactorily completed one course for credit in early childhood education or its equivalent at an institution of higher education, or is enrolled in that course within 6 months after assuming the position.

c. The person shall have satisfactorily completed an assistant child care teacher training program approved by the Wisconsin department of public instruction.

3. A parent serving as an assistant child care teacher in a center operated by a parent cooperative is exempt from the training requirements under subd. 2.

(f) *Non-credit course criteria.* 1. A non-credit course shall involve at least 36 hours of classroom participation or equivalent hours of participation for a correspondence course.

2. Non-credit courses offered to meet the non-credit course requirements specified in this subsection shall be approved by the department prior to being offered. The department may at any time withdraw its approval of a non-credit course.

(g) *Certificate.* Beginning January 1, 1998 each administrator, center director and child care teacher hired at a center on or after January 1, 1998 shall obtain a certificate from the registry of the Wisconsin early childhood professional recognition system within 3 months after assuming the position as evidence of meeting the education and experience qualifications in this subsection.

Note: Information about how to obtain a certificate may be obtained from The Registry, 1245 East Washington Avenue, Suite 282, Madison, Wisconsin 53703.

(h) *Substitutes.* 1. When a regular required staff member is absent from a center, there shall be a substitute.

2. A substitute employed by the same licensee for more than 240 hours a year shall meet the qualifications of the position in which he or she is to work as a substitute or be currently enrolled in training to meet those qualifications.

3. The center director or designee shall maintain a record of the days and hours worked by each substitute child care worker.

(i) *Volunteers and student teachers.* 1. Volunteers and student teachers shall participate in the orientation required under sub. (2) (a).

2. A volunteer included in determining staff-to-child ratios shall meet the requirements of the position the volunteer is filling.

3. Volunteers not included in determining staff-to-child ratios shall have at least 2 hours of training in day care programming and procedures before working in the classroom. This includes volunteers working in a center operated by a parent cooperative.

4. The center director or designee shall coordinate the volunteer program and keep on file a schedule of the hours of volunteers who are included in determining staff-to-child ratios.

5. Student teachers who are not employed by the day care center may not be considered by the day care center in determining staff-to-child ratios while gaining their student-teacher experience.

(j) *Health qualifications.* 1. Except as provided under subd. 2, persons who work directly with children, except volunteers, shall have a health examination within 12 months prior to beginning work at a specific day care center or within 30 days after beginning work at the center. The results of the examination shall be stated on a form provided by the department. The report shall be dated and signed by a licensed physician, physician assistant or HealthCheck provider. The report shall indicate that:

a. The person is free from any communicable disease reportable under ch. HFS 145 which presents a safety or health risk to children, including tuberculosis, and which is transmitted through normal contact.

b. The person is physically able to work with young children.

2. The health examination requirement under subd. 1. does not apply to a person who requests from the department in writing an exemption based upon adherence to religious belief in exclusive use of prayer or spiritual means for healing in accordance with a bona fide religious sect or denomination.

3. No licensee, employe, volunteer, visitor or parent with symptoms of serious illness or a communicable disease transmitted through normal contact reportable under ch. HFS 145 which presents a present safety or health risk to children or whose behavior gives reasonable concern for the safety of children may be on the premises of the center. The department may require a licensee, employe or other adult in regular contact with the children whose behavior gives reasonable concern for the safety of children to submit to an examination by a licensed mental health professional as a condition of licensure or employment.

Note: See also s. HFS 46.12 (2) (f) which requires a written statement from a physician or licensed mental health professional when there is reason to believe that the physical or mental health of a person may endanger children in care.

4. No person with a health history of typhoid, paratyphoid, dysentery or other diarrheal disease may work in a center until it is determined by appropriate tests that the person is not a carrier of the disease.

(2) **STAFF DEVELOPMENT.** (a) *Orientation.* Each center shall develop and implement a written orientation program which all new employes, substitutes and regularly scheduled volunteers shall complete within their first week at the center. The orientation program shall cover all of the following:

1. Review of this chapter.
  2. Review of center policies required under s. HFS 46.04 (2) (h) and (i).
  3. Training in emergency procedures, including the operation of fire extinguishers.
  4. First aid procedures.
  5. Job responsibilities in relation to the job description.
  6. Training in the recognition of childhood illnesses and infectious disease control, including handwashing procedures and universal precautions for handling body fluids.
- Note: A copy of the universal precautions may be obtained from the Occupational Health Section, Bureau of Public Health, 1414 East Washington Avenue, Madison, Wisconsin 53703.
7. Schedule of activities of the center.
  8. Review of child abuse and neglect laws and reporting procedures.
  9. The procedure for ensuring that all child care workers know the children assigned to their care and their whereabouts at all times.
  10. Child management techniques.
  11. The integration of children with disabilities into the program.

(b) *Staff meetings.* To ensure that staff have the opportunity to receive pertinent information and clarification of problems and issues, each center shall conduct staff meetings at least 9 times in a calendar year or one time for each month of center operation and document that staff meetings have been held.

(c) *Continuing education.* 1. Each administrator, center director and child care worker who works more than 20 hours a week shall participate in at least 25 hours of continuing education each year.

2. Each administrator, center director and child care worker who works 20 or fewer hours a week shall participate in at least 15 hours of continuing education each year.

3. Continuing education hours which are obtained through credit courses resulting in a transcript may be used to meet the continuing education requirement during the year in which the hours are earned and for the 2 years following that year.

4. Assistant child care teachers who are currently enrolled in their first entry level course are not required to earn continuing education hours for that calendar year.

5. Types of training acceptable to meet continuing education requirements shall be limited to:

- a. Formal courses resulting in credits or continuing education units.
- b. Workshops, conferences, seminars, lectures, correspondence courses and home study courses.
- c. Training offered by the day care center through the use of guest or staff trainers.
- d. Documented observation time in other early childhood programs.

6. Continuing education experiences may be in the areas of early childhood education, child development, child guidance, health, first aid, cardiopulmonary resuscitation (CPR), nutrition as it pertains to child development, supervision of staff or the business or administrative aspects of the operation of a day care center or in communication skills.

7. Each administrator and center director shall complete at least 10 hours of training in supervision or personnel management within one year of assuming the position as part of the annual continuing education requirement, if they have not previously received that training.

(d) *Food service personnel orientation and training.* The center shall provide food service personnel with the orientation under par. (a) and shall document annual training of at least 4 hours in kitchen sanitation, food handling and nutrition.

(3) **SUPERVISION.** (a) At least one child care teacher shall supervise each group of children.

(b) Assistant child care teachers who have completed the training required for the position may provide supervision to children in full day care centers for opening and closing hours, not to exceed the first 2 hours and the last 2 hours of center operation.

(c) Each child shall be closely supervised by a child care worker.

(d) A child care worker may not provide care to children at the center more than 10 hours in any 24-hour period.

(e) A child may not be in care more than 12 hours in any 24-hour period.

(f) The center shall implement a procedure to ensure that the number and names of children in care are known to assigned child care workers at all times.

(4) **STAFFING AND GROUPING.** (a) The maximum number of children in a group may not exceed the number specified in Table 46.05-D.

(b) The ratio of child care workers to children may not be less than the minimum number of child care workers to children specified in Table 46.05-D.

**TABLE 46.05-D**  
**MAXIMUM GROUP SIZE AND MINIMUM NUMBER**  
**OF CHILD CARE WORKERS IN GROUP DAY CARE**  
**CENTERS**

Age of Children	Minimum Number of Child Care Workers to Children	Maximum Number of Children in a Group
Birth to 2 Years	1:4	8
2 years to 2½ Years	1:6	12
2½ Years to 3 Years	1:8	16
3 Years to 4 Years	1:10	20
4 Years to 5 Years	1:13	24
5 Years to 6 Years	1:17	32
6 Years and Over	1:18	32

(c) When 8 or fewer children are present in a center, there shall be a second adult available within 5 minutes for emergencies. The center shall maintain a signed and dated statement from that person, including address and telephone number, certifying that the person is available and agrees to serve if needed.

(d) Maximum group size does not apply to field trips, outdoor play areas, pools and areas of the center reserved exclusively for eating, but staff-to-child ratios shall be maintained in those settings.

(e) During naptime for children 2 years of age and older, an adjustment in group size and staff-to-child ratios in Table 46.05-D may be made as follows:

1. One child care worker shall be within sight or sound of each group of resting children.

2. Adult-to-child ratios shall be maintained in the center during naptime.

3. Maximum group size requirements do not apply to napping groups.

(f) When there is a mixed-age group, the staff-to-child ratio shall be adjusted on a prorata basis, according to age.

(g) When infants and toddlers are part of a mixed-age group, the size of the group may not exceed 8.

(h) When the group of children is a mixed age group of children 2 years and older, the group size shall be determined by the number of children that can be cared for by 2 child care workers as determined by the staff-to-child prorata requirement under par. (f).

(i) In a center with 9 or more children present, there shall be at least 2 adults available in the center at all times. At least one of the adults shall be a child care worker directly involved in the supervision and care of the children.

(j) When 9 or more children are on a field trip there shall be at least 2 adults accompanying the children and the staff-to-child ratios in Table 46.05-D shall be maintained. At least one of the adults shall be a child care teacher.

(k) Support staff, such as clerical, housekeeping and food service staff, may only be considered in determining the staff-to-child ratios:

1. During those hours when they give full attention to the care and supervision of children.

2. If they meet the qualifications for a child care worker.

Note: A worksheet for prorating staff-to-child ratios for mixed-age groups is in Appendix B. Copies are available from the Forms Center, Division of Children and Family Services, P. O. Box 7851, Madison, Wisconsin 53707-7851.

(L) Child care workers shall be free of non-classroom duties when they are counted in meeting the staff-to-child ratios.

(m) Children of staff who attend the center and who are on the premises for supervision and care shall be included in determining group size and staff-to-child ratios.

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97; reprinted to correct error in Table, Register, February, 1997, No. 494; reprinted to correct error in Table, Register, March, 1997, No. 495.

### HFS 46.06 Physical plant and furnishings.

(1) BUILDING. (a) The building in which a center is located shall comply with applicable state and local building codes. The licensee shall maintain a report of inspection of the building, which specifies that the building has been approved under ch. Comm 60 for use as a group day care center by an inspector employed by the Wisconsin department of commerce or by an inspector employed by a municipality certified by the Wisconsin department of commerce.

Note: Local authorities should be consulted to obtain any required zoning clearances or building permits.

(b) The department shall be given written notice of proposed construction, remodeling of existing space or change in rooms to be used by children prior to the initiation of the changes.

(c) Space designated for use by children may only be used by children and staff and may not be used for other purposes while the center is open.

(d) The inside temperature may not be less than 67°F.

(e) If the inside temperature exceeds 80°F, the licensee shall provide for air circulation with fans or by other means.

(2) PROTECTIVE MEASURES. (a) The indoor and outdoor premises shall be free of hazards.

(b) Steam radiators, fireplaces, wood burning stoves, electric fans, electric outlets, electrical heating units and hot surfaces, such as pipes, shall be protected by screens or guards so that children cannot touch them.

(c) Firearms, ammunition and other potentially dangerous items may not be kept on the premises.

(d) Materials harmful to children, including power tools, flammable or combustible materials, insecticides, matches, drugs and other articles hazardous or poisonous to children shall be in properly marked containers and stored in areas inaccessible to children.

(e) A motor vehicle shall be immediately available at the center at all times in case of an emergency if a public or private rescue or emergency vehicle cannot arrive at the center within 10 minutes of a phone call.

(f) The center shall have a working telephone or access to a working telephone on the premises during hours of operation, with a list of emergency telephone numbers, including telephone numbers for the local rescue squad, fire department, police department or other law enforcement agency, poison control center and emergency medical service posted near each telephone. In this paragraph, "telephone" does not include a pay telephone requiring payment to reach the operator or a telephone in a locked room.

(g) Stairs, walks, ramps and porches shall be maintained in a safe condition and free from the accumulation of water, ice or snow.

(h) Smoking is prohibited in any indoor or outdoor area of the center in which children are allowed, on any day the center is in operation, regardless of whether children are present.

(i) Alcoholic beverages and non-prescribed controlled substances, as specified in schedules I to V of subch. II of ch. 961, Stats., may not be consumed on the premises of the day care center.

(j) Children may not be allowed in an area where power tools are in use.

(3) **EMERGENCIES.** Each center shall have a written plan for responding to a fire, tornado, a tornado warning or other emergency. A center shall do all of the following:

- (a) Post the plan and practice implementing it monthly.
- (b) Make sure that all staff members know what their duties are if there is a fire or tornado or a tornado warning.
- (c) Keep a written record of dates and times of the monthly practice.
- (4) **FIRE PROTECTION.** (a) Each fire extinguisher on the premises of a center shall be operable at all times, inspected once a year by a qualified person and bear a label indicating its present condition and date of the last inspection.
- (b) All staff members shall be instructed in and knowledgeable about the use of the fire extinguishers.
- (c) Each floor used by children shall have at least 2 exits.
- (d) Exits and exit passageways shall have a minimum clear width of 3 feet and be unobstructed by furniture or other objects.
- (e) An extension cord may not be used permanently with an appliance.
- (f) No more than 2 electrical appliances may be plugged into any one wall outlet.
- (g) The door to the basement and furnace room shall be closed.
- (h) Areas under stairs may not be used for storage.
- (i) All exit lights shall be lit at all times.
- (j) Fire alarms and smoke detectors shall be maintained in good working order and shall be tested weekly and a record shall be kept of the test results.
- (k) Unvented gas, oil or kerosene space heaters are prohibited.

(5) **SANITATION.** (a) The premises shall be free from litter, clean and in good repair.

- (b) 1. There shall be no flaking or deteriorating paint on exterior or interior surfaces in areas accessible to children.
- 2. No lead-based paint or other toxic finishing material may be used.

(c) Garbage containers in the building shall be rigid, covered, watertight and emptied daily or more often as needed. Compactors need not be emptied daily. Garbage and refuse stored out of doors shall be kept in leak-proof containers equipped with tight-fitting covers and shall be disposed of as necessary to prevent decomposition or overflow.

(d) Furnishings, toys, cots and other equipment shall be washed or cleaned when they become soiled. Eating surfaces shall be washed and sanitized before and after each use.

(e) 1. Toilet rooms and fixtures shall be in a sanitary condition at all times.

2. Potty chair receptacles shall be emptied and rinsed and the potty chair and receptacle shall be disinfected immediately after each use with a chlorine bleach solution of one tablespoon to one quart of water, made fresh daily.

(f) Windows and doors that are used for ventilation shall be screened.

(g) The premises shall be maintained to prevent the entrance or harborage of vermin.

(6) **WATER.** (a) A safe supply of drinking water shall be available to children at all times from a drinking fountain of the angle jet type or by use of disposable cups. Common use of drinking cups is prohibited.

(b) If the center gets its water from a private well, the following shall apply:

- 1. Water samples from the well shall be tested annually for lead and bacteria by a laboratory certified under ch. HSS 165 and found bacteriologically safe. The laboratory report shall be available to the department upon request.

2. A center serving children under 6 months of age shall have the water tested for nitrate levels. If nitrate levels in the water are determined to be over 10 milligrams per liter, the department may require an alternate water source for children under 6 months of age.

(7) **INDOOR SPACE.** (a) The space used by children shall be no less than 35 square feet of usable floor space for each child, exclusive of passageways, kitchens, bathrooms, coat storage areas, offices, storage areas, isolation quarters, staff room, furnace room, parts of rooms occupied by stationary equipment, and areas not at all times available to children, including areas used exclusively for large muscle activity, napping or eating.

(b) There shall be additional storage space for cots, bedding, supplies and equipment not in use.

(8) **FURNISHINGS.** (a) Furnishings shall be durable and safe, with no sharp, rough, loose or pointed edges.

(b) Tables and seating shall be scaled to the proper height and size for the children's comfort and reach.

(c) 1. Except as provided in subd. 2, in a center where meals are served, seating shall be at least equal to the licensed capacity of the center, excluding infants, so that the children can be served at the same time, and there shall be space at a table for each child.

2. In a center where meals are served in a central lunchroom, seating and tablespace shall be at least equal to the number of children to be served in a shift.

(d) Shelves shall be provided for equipment and supplies in rooms used by children. Equipment and supplies shall be arranged in an orderly fashion so that children may select, use and replace items.

(e) There shall be sufficient storage space for clothing and personal belongings to accommodate the clothing and personal belongings of as many children as are in the licensed capacity of the center. For children 2 years of age and older, the space for outer garment storage shall be at child level.

(f) A safe, washable cot, bed, two-inch thick mat or sleeping bag shall be provided for each child 12 months old or older who naps or sleeps.

(g) A safe, washable crib or playpen shall be provided for use of each child less than 12 months old who naps or sleeps. A crib or playpen shall be washed and disinfected between changes in occupancy.

(9) **KITCHENS.** (a) *Equipment and utensils.* 1. When meals are prepared or heated on the premises, the kitchen shall be equipped with a microwave or stove with an oven, a refrigerator, a sink and utensils that are necessary to prepare and serve meals. The sink shall be used exclusively for food preparation and dishwashing.

2. All equipment and utensils shall have smooth, hard surfaces, be easily cleanable, in good repair, durable, non-toxic and free of cracks, seams, chips and roughened areas, and shall be maintained in a clean and sanitary condition.

3. Food preparation tables shall be durable, and surfaces shall be smooth, non-absorbent and easily cleanable.

4. After cleaning, utensils shall be stored in a clean, dry place and protected from contamination.

5. Single-service utensils shall be non-toxic, stored in a clean, dry place, kept covered, and may not be reused.

6. Infant bottles and nipples may not be reused without first being cleaned and sanitized.

(b) *Dishwashing procedures.* 1. All kitchen utensils and food contact surfaces used for preparation, storage or serving of food shall be thoroughly cleaned and sanitized after each use.

2. All utensils and dishes shall be scraped, sorted and pre-washed under running water.

3. For manual washing of dishes and utensils, a 3-step procedure shall be used:

- a. Wash in water between 110° and 125°F, using an effective soap or detergent.
- b. Rinse by immersing dishes and utensils in clean, hot water to remove soap or detergent.
- c. Sanitize by submerging dishes and utensils for at least 2 minutes in a solution of a sanitizer approved by the department.
- 4. For mechanical washing of dishes and utensils, one of the following shall apply, as appropriate:
  - a. Wash at 130° to 150°F for at least 20 seconds, using an effective cleaning agent, and rinse and sanitize at 180°F for 10 seconds or more, using an automatic rinse injector.
  - b. For washing in hometype dishwashers with a temperature setting of between 130° and 150°F, dishes and utensils shall be washed and rinsed in the dishwasher and sanitized by submerging dishes and utensils for at least 2 minutes in a solution of a sanitizer approved by the department.
  - c. For washing in commercial spray-type dishwashing machines using a chemical sanitizer in the final rinse, the dishes and utensils shall be washed, rinsed, and sanitized in the dishwasher according to the machine manufacturer's operating instructions.
- 5. Readily-visible temperature gauges shall be located in the wash compartment of all mechanical dishwashers and in the rinse water line of spray-type mechanical dishwashers or in the rinse tank of an immersion-type dishwasher.
- 6. All dishes and utensils shall be air-dried in racks or baskets or on drain boards.

Note: A list of approved sanitizers is available from the Bureau of Public Health, Division of Health, P.O. Box 309, Madison, Wisconsin 53701.

- (c) **Food sources.** 1. Food shall be clean, wholesome, free from spoilage, free from adulteration or misbranding and safe for human consumption.
  - 2. Only milk and milk products which are pasteurized and meet the Grade A milk standards of the Wisconsin department of agriculture, trade, and consumer protection may be served or used.
  - 3. No food prepared for meals may be served unless it is prepared on the premises, prepared in a central kitchen operated by the day care center and inspected and approved by the licensing representative or in another location licensed under ch. HFS 196.
  - 4. Food in dented, bulging or leaking cans, or cans without labels, may not be used.
  - 5. Hermetically sealed, non-acid or low-acid food which has been processed in a place other than a commercial food processing establishment may not be used.

- (d) **Food storage.** 1. Foods shall be stored at temperatures which protect against spoilage. The following measures shall be taken to prevent spoilage:
  - a. Perishable and potentially hazardous food which includes all custard-filled and cream-filled pastries, milk and milk products, meat, fish, shellfish, gravy, poultry stuffing and sauces, dressings, salads containing meat, fish, eggs, milk or milk products, and any other food or food product likely to spoil quickly if not kept at the proper temperature shall be continuously maintained at 40°F or below or 150°F or above, as appropriate, except during necessary periods of preparation and service.
  - b. Each refrigeration unit shall be maintained at 40°F or lower and each freezing unit shall be maintained at 0°F or lower.
  - c. Each cold storage facility shall be equipped with a clearly visible accurate thermometer.
  - d. Food shall be covered while refrigerated, except when being cooled.

2. Foods not requiring refrigeration shall be stored in clean, dry, ventilated and lighted storerooms or areas which shall be protected from contamination by sewage, wastewater backflow, condensation, leakage or vermin. In addition:

- a. Dry foods, such as flour, sugar, cereals and beans shall be stored in metal, glass or food-grade plastic containers with tight-fitting covers and shall be labeled. In this paragraph, "food grade plastic" means any plastic material used in the manufacture of dishes or utensils which has been found not harmful to human health by the national sanitation foundation.
- b. Foods stored in the basement shall be stored at least 8 inches above the floor, and food stored in other areas shall be stored high enough above the floor to provide for air circulation and to facilitate cleaning.

(e) **Cleaning aids.** 1. Poisonous and toxic materials, including cleaning supplies, bleaches and insecticides, shall be labeled and stored in cabinets used for no other purpose and shall be inaccessible to children.

2. Cleaning aids such as mops, broom and buckets shall be clean and shall be stored outside of food preparation or food storage areas.

(f) **Food handling.** 1. Raw fruits and vegetables shall be washed before being served or cooked.

2. Food returned from individual plates or from dining tables shall be discarded.

3. Leftover prepared food which has not been served shall be dated, refrigerated promptly and used within 36 hours, or frozen immediately for later use.

4. Food delivery vehicles shall be equipped with clean containers or cabinets to store food while in transit. Containers for cold food shall be capable of maintaining the temperature at or below 40°F and containers for hot food shall be capable of maintaining the temperature at or above 150°F.

5. Frozen foods shall be defrosted in the refrigerator, under cold running water or on the defrost setting in a microwave oven. No frozen food may be defrosted by leaving it at room temperature.

(g) **Food service personnel.** 1. Personnel who help prepare meals shall:

- a. Be at least 18 years of age.
- b. Wear clean clothing and effective hair restraints such as hair nets or caps.
- c. Wash their hands with soap and warm running water before starting work, before and after handling food, and after using the toilet.
- 2. No one with an open or infected wound or sore may work in the food preparation area unless the wound or sore is covered and, if it is on a hand, a nonporous glove is worn on that hand.

(10) **WASHROOM AND TOILET FACILITIES.** (a) A group day care center shall provide at least the number of washbasins and toilets with plumbing indicated in Table 46.06.

TABLE 46.06

MINIMUM NUMBER OF WASHBASINS AND TOILETS REQUIRED IN GROUP DAY CARE CENTERS

Maximum Number of Children for Which the Center is Licensed	Number of Toilets	Number of Washbasins
9 or 10	1	1
11 to 25	2	1
26 to 40	3	2
41 to 55	4	2
56 to 70	5	3

(b) When a center is licensed for more than 70 children, one additional toilet shall be provided for each additional 15 children or fraction thereof and washbasins shall be provided in the ratio of one for every 2 additional toilets and urinals or fraction thereof.

Urinals may be substituted for up to 1/3 of the total required toilets.

(c) Children under the age of 30 months need not be included when determining the required fixtures under par (a). However, in all cases, at least one toilet and one washbasin shall be provided.

(d) If potty chairs are used for children under 30 months of age, the potty chairs shall be provided in a ratio of one for every 4 children or fraction thereof.

(e) Steps or blocks shall be provided if the washbasins and toilets are not proportioned to the size of the children.

(f) Soap, toilet paper, disposable paper towels and a wastepaper container shall be provided and accessible to children using the facilities.

(g) Toilet room door locks shall be openable from the outside and the opening device shall be readily accessible to the staff.

(11) **OUTDOOR PLAY SPACE.** (a) *Requirement for outdoor play space.* A center shall have outdoor play space if children are present for more than 3 hours a day or if outdoor play is included in the center program.

(b) *Required features of outdoor play space.* Except when an exemption is requested and is approved by the department under par. (c), a center shall comply with all of the following requirements for outdoor play space:

1. 'Location.' The outdoor play space shall be on the premises of the center.

2. 'Amount of space.' a. There shall be at least 75 square feet of outdoor play space for each child 2 years of age or older using the space at a given time.

b. There shall be at least 35 square feet of outdoor play space for each child under 2 years of age using the space at a given time except as provided in subd. 2. c.

c. The total outdoor play space of a center shall accommodate not less than 1/3 of the number of children for which the center is licensed or shall be a minimum of 750 square feet, whichever is greater. The number of children under one year of age need not be included for purposes of computing the minimum required outdoor play space if the center provides spaces in wheeled vehicles such as strollers and wagons equal to the number of children under one year of age.

d. An energy-absorbing surface, such as loose sand, pea gravel or pine or bark mulch, in a depth of at least 9 inches is required under climbing equipment, swings and slides and in a fall zone of 4 feet beyond and whenever play equipment is 4 feet or more in height.

(c) *Exemption for off-premises play space.* 1. In this paragraph, "main thoroughfare" means a heavily traveled street or road used by vehicles as a principal route of travel.

2. A center wanting to use an off-premises play space may ask the department for an exemption from the requirements under par. (b) for a center's outdoor play space. The request for an exemption shall be in writing and shall be accompanied by a plan for outdoor play space which does all of the following:

a. Identifies and describes the location to be used, the travel distance from the center to that location and the means of transporting the children to that location.

b. Provides for adequate supervision of the children as specified in Table 46.05-D.

c. Provides for daily vigorous exercise in the out-of-doors for the children.

d. Describes the arrangements to meet the toileting and diapering needs of the children.

e. Affirms the center's compliance with the requirements included in subds. 3. to 6.

Note: Send the request for an exemption and the off-premises outdoor play space plan to the licensing representative at the appropriate field office of the Department's

Division of Children and Family Services. See Appendix A for addresses of the field offices.

3. The off-premises outdoor play space shall be free of hazards such as bodies of water, railroad tracks, unfenced in-ground swimming pools, heavily wooded areas and nearby highways and main thoroughfares.

4. There shall be at least 75 square feet of outdoor play space for each child 2 years of age or older using the space at a given time, and at least 35 square feet of outdoor play space for each child under 2 years of age using the space at a given time.

5. No climbing equipment, swing or slide in the play space may have concrete or asphalt under it.

6. When the off-premises outdoor play space is reached by walking, the center shall transport children under 3 years of age in wheeled vehicles, such as strollers or wagons, with a seating capacity equal to the number of children under 3 years of age to be transported.

7. A center's plan for use of an off-premises outdoor play space is subject to approval by the department. Within 30 days after receipt of a plan and request for an exemption from the requirements of par. (b), the department shall either approve the plan and grant the exemption or not approve the plan and therefore deny the request for exemption. The department shall notify the center in writing of its decision and, if it does not grant an exemption, shall state its reasons for not granting the exemption.

8. If any circumstance described in an approved plan for use of off-premises outdoor play space changes or if any condition for plan approval is not met or is no longer met, the department may withdraw its approval of the plan and cancel the exemption. A center with an approved plan shall immediately report to the department's licensing representative any significant change in any circumstance described in the plan.

(12) **SWIMMING AREAS.** (a) 1. A center which has a swimming pool on its premises shall comply with the requirements of chs. Comm 90 and HFS 172, relating to swimming pool safety.

2. A center which has a beach on its premises shall comply with the requirements of any local ordinance that may apply.

(b) The center shall maintain a ratio of one person qualified by Red Cross, Boy Scouts or Young Men's Christian Association lifesaving certificate for every 25 children in the water.

(c) While children are in the water of a pool or beach other than a wading pool, staff-to-child ratios for child care workers who can swim shall be:

1. For children under 3 years of age: 1:1.

2. For children 3 years of age: 1:4.

3. For children 4 and 5 years of age: 1:6.

4. For children 6 years of age and older: 1:12.

(d) When there is a mixed age group, the staff-to-child ratio shall be adjusted on a prorata basis, according to age.

(e) A child shall be restricted to the area of the pool or beach that is within the child's tested swimming ability.

(f) Above ground rigid swimming pools may not be used by children in care and shall be enclosed by a 6 foot fence with a self-closing, self-latching door. Spaces between vertical posts of the fence shall be 4 inches or less.

(g) A wading pool may be used if the water is changed and disinfected daily. In this paragraph, "wading pool" means a shallow pool capable of being dumped to change water and used primarily for small children.

(h) When a swimming pool or beach that is not located on center premises is used by children:

1. The construction and operation of the pool shall meet the requirements of chs. Comm 90 and HFS 172 for public swimming pools and the beach shall meet the requirements of any local ordinance.

2. Lifesaving personnel shall be on duty and staff-to-child ratios in pars. (c) and (d) shall be maintained by staff who can swim while children are in the water.

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97; r. and recr. (11), Register, September, 1998, No. 513, eff. 10-1-98.

**HFS 46.07 Program.** (1) PROGRAM PLANNING AND SCHEDULING. (a) Each group day care center shall have a written program of activities which are suitable for the developmental level of each group of children. The program shall provide each child with experiences which will promote all of the following:

1. Self-esteem and positive self-image.
2. Social interaction.
3. Self-expression and communication skills.
4. Creative expression.
5. Large and small muscle development.
6. Intellectual growth.

(b) The program schedule shall be planned to provide a flexible balance each day of:

1. Active and quiet activities.
2. Individual and group activities.
3. Indoor and if the center is in operation more than 3 hours per day, outdoor activities.

(c) Television may be used only to supplement the daily plan for children. No child may be required to watch television. Other activities shall be available.

(d) Routines such as toileting and eating and intervals between activities shall be planned to avoid keeping children waiting in lines or assembled in large groups.

(e) The program shall provide all of the following:

1. Reasonable regularity in eating, napping and other routines.
2. Daily periods when a variety of experiences are concurrently available for the children to select their own activities.
3. Protection from excess fatigue and over stimulation.
4. If a center is in operation for more than 3 hours per day, daily outdoor activities except during inclement weather or when not advisable for health reasons.

(f) Child care workers shall give children individual attention.

(g) A center that is open in the early morning and late afternoon shall have a written plan for activities which meet the individual needs of the children during those time periods. The plan shall include:

1. Provision of opportunities for the children to rest and eat.
2. Use of materials and engagement in activities which for the most part do not duplicate materials or activities planned for the major part of the program.

(h) The program as implemented shall reflect the center's written policies.

(2) CHILD GUIDANCE. (a) In this subsection:

1. "Time-out period" means removing the child from the situation in a non-humiliating manner and placing the child in a designated location in order to interrupt the child's unacceptable behavior.

2. "Redirection" means directing the child's attention to a different program activity.

(b) Each day care center shall have a written policy which provides for positive guidance, redirection and the setting of clear-cut limits for the children. The policy shall be designed to help a child develop self-control, self-esteem and respect for the rights of others.

(c) If a center uses time-out periods to deal with unacceptable behavior, time-out periods may not exceed 5 minutes and the procedure shall be included in the center's child guidance policy.

(d) Use of time-out periods is prohibited for children under 3 years of age.

(e) Actions which are humiliating or frightening to a child are prohibited. Examples of prohibited actions include:

1. Spanking, hitting, pinching, shaking or inflicting any other form of corporal punishment.
2. Verbal abuse, threats or derogatory remarks about the child or the child's family.
3. Binding or tying to restrict movement or enclosing in a confined space such as a closet, locked room, box or similar cubicle.
4. Withholding or forcing meals, snacks or naps.

(f) A child may not be punished for lapses in toilet training.

(3) EQUIPMENT. (a) Indoor and outdoor play equipment shall be safe. The equipment shall be:

1. Scaled to the developmental level, size and ability of the children.
2. Of sturdy construction with no sharp, rough, loose, protruding, pinching or pointed edges, or areas of entrapment, in good operating condition, and anchored when necessary.
3. Placed to avoid danger of injury or collision and to permit freedom of action.
4. Placed over an energy-absorbing surface, when equipment is 4 feet or more in height.

(b) A center shall provide equipment and supplies according to the following criteria:

1. Child development shall be fostered through selection of a variety of equipment that will:
  - a. Provide large muscle development.
  - b. Provide construction activities and for development of manipulative skills.
  - c. Encourage social interaction.
  - d. Provide intellectual stimulation.
  - e. Encourage creative expression.

2. A center shall provide sufficient indoor play equipment to allow each child a choice of at least 3 activities involving equipment when all children are using equipment.

3. A center shall provide sufficient outdoor play equipment to allow each child at least one activity involving equipment when all children are using equipment.

(c) The quantity of indoor and outdoor play equipment specified in par. (b) 2. and 3. shall be provided based on the maximum licensed capacity of the center.

(d) Equipment and materials which reflect an awareness of cultural and ethnic diversity shall be provided.

Note: Note: Lists suggesting kinds and numbers of play equipment for centers are available from the Child Care Information Center, 317 Knutson Drive, Madison, Wisconsin 53704.

(e) Children using play equipment shall be closely supervised to prevent injuries.

(4) REST PERIODS. (a) A child under 5 years of age in care for more than 4 hours shall have a nap or rest period.

(b) Child care workers shall permit a child who does not sleep after 30 minutes and a child who awakens to have quiet time through the use of equipment or activities which will not disturb other children.

(c) Each child who has a nap or rest period shall be provided with an individual bed, cot, sleeping bag, 2 inch thick mat, crib or playpen which is placed at least 2 feet from the next sleeping child. Cribs or cots may be placed end-to-end if a solid partition separates children and an aisle not less than 2 feet in width is maintained between cribs and cots.

(d) Each child shall be provided with an individually identified sheet and blanket or sleeping bag which may be used only by that child until it is washed.

(e) Bedding shall be maintained and stored in a clean and sanitary manner, replaced immediately if wet or soiled and washed at least after every 5 uses.

(5) MEALS AND SNACKS. (a) *Food*. 1. Food shall be provided by the center based on the amount of time children are present as specified in Table 46.07.

TABLE 46.07

## MEAL AND SNACK REQUIREMENTS FOR EACH CHILD IN A GROUP DAY CARE CENTER

Time a Child is Present	Number of Meals and Snacks
At least 2½ but less than 4 hours	1 snack
At least 4 but less than 8 hours	1 snack and 1 meal
At least 8 but less than 10 hours	2 snacks and 1 meal
At least 10 or more hours	2 meals and 2 or 3 snacks

2. Center-provided transportation time shall be included in determining the amount of time children are present for the purposes of subd. 1.

3. Food shall be served at flexible intervals, but no child may go without nourishment for longer than 3 hours.

4. Each meal and snack served shall meet the U.S. department of agriculture child care food program minimum meal requirements.

Note: See Appendix C for information on the U.S. department of agriculture child care food program minimum meal requirements.

5. Menus shall:

a. Be posted in the kitchen and in a conspicuous place accessible to parents.

b. Be planned at least one week in advance, dated and kept on file for 3 months.

c. Be available for review by the department.

d. Include diverse types of foods.

6. Any changes in a menu as planned shall be recorded on the copies of the menu kept on file and posted for parents.

7. Enough food shall be prepared for each meal so that second portions of vegetables or fruit, bread and milk are available to children.

8. When food for a child is provided by the child's parent, the center shall provide parents with information about requirements for food groups and quantities specified by the U.S. department of agriculture child care food program minimum meal requirements.

Note: See Appendix C for information on the U.S. department of agriculture child care food program minimum meal requirements.

9. A special diet, including nutrient concentrates and supplements, may be served only upon written instruction of a child's physician and upon request of the parent.

10. Cooks, staff members, child care workers and substitutes having direct contact with the children shall be informed about food allergies and other allergies of specific children.

(b) *Mealtime*. 1. Staff shall sit at the table with the children during mealtime.

2. Meals shall be served with time allowed for socialization.

(6) HEALTH. (a) *Observation*. 1. Each child upon arrival at a center shall be observed by a staff person for symptoms of illness and injury. For an apparently ill child, the procedure under par. (c) shall be followed.

2. Any injury to a child or evidence of unusual bruises, contusions, lacerations or burns received by a child in or out of center care shall be recorded in a medications and injury log book and reported immediately to the administrator or other person in charge of the center.

(b) *Isolation*. A center shall have an isolation area for the care of children who appear to be ill. If the area is not a separate room,

it shall be separated from space used by other children by a partition, screen or other means.

(c) *Ill child procedure*. The following procedures shall apply when a child with a sore throat, inflammation of the eyes, fever, lice, ringworm of the scalp, rash, vomiting, diarrhea or other illness or condition having the potential to affect the health of other persons is observed in the day care center:

1. The child shall be isolated.

2. The child in the isolation area shall be provided with a bed, crib or cot and a sheet and blanket or sleeping bag, with a staff member within sight and hearing of the child, except that for sessions of up to 4 hours a kindergarten mat may be provided for the isolation room instead of a bed, crib or cot. Isolation shall be used until the child can be removed from the center.

3. The child's parent, or a designated responsible person when a parent cannot be reached, shall be contacted as soon as possible after the illness is discovered, and arrangements shall be made for removal of the child from the center.

(d) *Care of a mildly ill child*. A child who is mildly ill may be cared for at the center when all of the following conditions are met:

1. The space for the care of a mildly ill child shall be a self-contained room and shall be separate from children who are well.

2. The room shall have a sink with hot and cold running water.

3. The parent consents in writing.

4. The written health policy of the center allows a mildly ill child to remain at the center.

5. The center follows and implements procedures in a written plan for the provision of care to mildly ill children approved and signed by a licensed physician, which covers all of the following:

a. Admissions and exclusions.

b. Staffing.

c. Staff training.

d. Monitoring and evaluation.

e. Programming.

f. Infectious disease control.

g. Emergency procedures.

6. Medical consultation is available from a physician or local health department in establishing policy for the management of mildly ill children.

(e) *Communicable disease*. 1. A child with a reportable communicable disease specified in ch. HFS 145 may not be admitted to or be permitted to remain in a day care center during the period when the disease is communicable.

2. When it is determined that a child enrolled in a day center has a reportable communicable disease under ch. HFS 145 transmitted through normal contact, such as chicken pox, German measles, infectious hepatitis, measles, mumps, scarlet fever or meningitis, the local public health officer and the parents of exposed children shall be notified.

3. A child may be readmitted to the group day care center if the parents provide a statement from a physician that the child's condition is no longer contagious or if the child has been absent for a period of time equal to the longest usual incubation period for the disease as specified by the department.

Note: A chart with information on communicable disease is available from the Child Care Information Center, 317 Knutson Drive, Madison, Wisconsin 53704.

(f) *Medications*. 1. Center staff may give prescription or non-prescription medication, such as aspirin or cough medicine, to a child or apply parent-provided and labeled sunscreen or insect repellent to a child only under the following conditions:

a. A written authorization dated and signed by the parent is on file.

b. The medication is in the original container and labeled with the child's name and the label includes the dosage and directions for administration.

c. A written record, including type of medication given, dosage, time, date and the name of the person administering the medication, shall be made in the center medications and injury log book on the same day that the medication is administered. The recording of the application of sunscreen or insect repellent is not required.

2. Medication shall be stored so that it is not accessible to the children.

3. Medication requiring refrigeration shall be kept in the refrigerator in a separate, covered container clearly labeled "medication".

(g) *Health precautions.* 1. Bodily secretions such as runny noses, eye drainage and coughed-up matter shall be wiped with a disposable tissue used once and placed in a plastic-lined container. Whoever does the wiping shall wash his or her hands immediately.

2. Bodily secretions on surfaces shall be washed with soap and water and disinfected with a bleach solution of one tablespoon bleach to one quart of water, made fresh daily. Hands shall be washed immediately.

3. Children shall be protected from sunburn with protective clothing or parent-provided and labeled sunscreen.

4. Children shall be clothed to assure body warmth and comfort.

(h) *Universal precautions.* 1. Center staff shall adopt universal precautions when exposed to blood and blood-containing body fluids and injury discharges of all children.

2. All persons exposed to blood or blood-containing body fluids and tissue discharges shall wash their hands immediately with soap and warm running water.

3. Single use disposable gloves shall be worn if there is contact with blood-containing body fluids or tissue discharges. Hands shall be washed with soap and water after removal of gloves. Gloves shall be discarded in plastic bags.

4. For spills of vomitus, urine, feces, blood or other body fluids, center staff shall clean and disinfect the floors, walls, bathrooms, tabletops, toys, kitchen countertops and diaper changing tables.

(i) *Personal cleanliness.* 1. A child's hands shall be washed with soap and warm running water before meals and snacks and after toileting or diapering. A child's hands and face shall be washed after meals.

2. Persons working with children shall wash their hands with soap and warm running water before handling food, and after assisting with toileting and after wiping bodily secretions from a child with a disposable tissue.

3. Cups, eating utensils, toothbrushes, combs and towels may not be shared and shall be kept in a sanitary condition.

4. Wet or soiled clothing and diapers shall be changed promptly from an available supply of clean clothing.

5. Applicable rules under s. HFS 46.09 (4) shall apply to child care workers when children 2 years of age and older require attention for diapering and toileting.

(j) *Injuries.* 1. Written permission from the parent to call a child's physician or refer the child for medical care in case of injury shall be on file at the center. The center shall contact the parent as soon as possible after an emergency has occurred or, if the injury is minor, when the parent picks up the child.

2. A center shall identify a planned source of emergency medical care, such as a hospital emergency room, clinic or other constantly staffed facility, and shall advise parents about the designated emergency medical facility.

3. A center shall establish and follow written procedures for bringing a child to an emergency medical care facility and for treatment of minor injuries.

4. First aid procedures shall be followed for serious injuries.

5. Each center shall have a supply of bandages, tape, bandaids and syrup of ipecac.

6. Superficial wounds shall be cleaned with soap and water only and protected with a bandaid or bandage.

7. Suspected poisoning shall be treated only after consultation with a poison control center.

8. A daily record of injuries shall be kept in the center medications and injury log book.

9. Records of injuries shall be reviewed by the director or designated person with staff at least twice each year in order to determine that all possible preventive measures are being taken. There shall be documentation in the medications and injury log book that reviews have taken place.

(k) *Health examination and history.* 1. Each child under 2 years of age shall have an initial health examination not more than 6 months prior to nor later than 3 months after being admitted to a center, and a follow-up health examination at least once every 6 months after admission.

2. Except for a school-age child, each child 2 years of age and older shall have an initial health examination not more than one year prior to nor later than 3 months after being admitted to the center, and a follow-up health examination at least once every 2 years after admission.

3. The health examination report shall be on a form provided by the department and shall be signed and dated by a physician, physician assistant or HealthCheck provider.

Note: Copies of the health examination report form are available from the Forms Center, Division of Children and Family Services, P.O. Box 7851, Madison, Wisconsin 53707.

Note: Any of the following, eligible to be certified as a HealthCheck provider, is authorized to sign a health examination report: an outpatient hospital facility, a health maintenance organization, a visiting nurse association, a clinic operated under a physician's supervision, a local public health agency, a home health agency, a rural health clinic, an Indian health agency or a neighborhood health center.

4. The health examination requirement under subd. 1. or 2. does not apply if the parent of a child requests in writing that the department grant an exemption based upon the parent's adherence to religious belief in exclusive use of prayer or spiritual means for healing in accordance with the teachings of a bona fide religious sect or denomination.

5. A child's health history completed by the child's parent shall be on file at the center by the first day of attendance.

(L) *Immunization.* The center shall maintain a record of immunizations for each child to document compliance with s. 252.04, Stats., and ch. HFS 144.

(7) *PETS AND ANIMALS.* (a) Dogs and cats that are kept on the premises of a center shall be vaccinated against rabies and shall be tolerant of children.

(b) Pets shall be kept and handled in a manner which protects the well-being of both children and pets.

(c) No pets may be in the food preparation area.

(8) *MISCELLANEOUS ACTIVITIES.* A center which includes in its program watercraft, riflery, archery or horseback riding shall comply with the applicable requirements under s. HSS 55.44 (8), (9) and (11).

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97.

**HFS 46.08 Transportation.** (1) *APPLICABILITY.* This section applies to all center-provided or center-contracted transportation of children, including both regularly scheduled transportation to and from the center and transportation for field trips that are under the auspices of the center.

(2) *GENERAL.* (a) The center is responsible for a child between the time the child is picked up until the child is delivered to the parent or to a responsible person designated by the parent.

(b) The following emergency information shall be carried in the vehicle for each child transported:

1. An address and telephone number where a parent or other adult can be reached in an emergency.

2. The name, address, and telephone number of the child's physician or medical facility.

3. Written consent from the child's parent for emergency medical treatment.

(c) Smoking is prohibited in the vehicle while children are being transported.

(d) The center administrator shall submit a copy of any accident report to the department within 5 days after the occurrence of an accident involving a vehicle transporting children.

**(3) DRIVER.** (a) In this subsection, "center-provided vehicle" means a vehicle owned or leased by the center to transport children but does not include a vehicle owned and driven by a parent or volunteer.

(b) The driver of a center-provided vehicle shall:

1. Be at least 18 years of age.
2. Hold a valid Wisconsin operator's license for the type of vehicle driven.
3. Have at least one year of experience as a licensed driver.

(c) The center shall have on file a copy of the driving record of the driver of a center-provided vehicle.

Note: Copies of driving records may be obtained from the Bureau of Driver Licensing, Division of Motor Vehicles, P.O. Box 7918, Madison, Wisconsin 53707.

**(4) VEHICLE.** (a) A vehicle used to transport children shall be:

1. Registered in Wisconsin.
2. Clean, uncluttered and free of obstructions on the floors, aisles and seats.
3. Enclosed. Children may not be transported in a truck except in the cab.

(b) Each child under 4 years of age being transported in a vehicle with a seating capacity of 15 or fewer shall be seated and properly restrained in an individual child car safety seat. Each child 4 to 8 years of age shall be restrained in an individual vehicle safety seat belt or a car safety seat.

(c) Passenger doors shall be locked at all times when a vehicle transporting children is moving.

**(5) VEHICLE CAPACITY AND SUPERVISION.** (a) Children may not be left unattended in a vehicle.

(b) When children are transported in a vehicle, there shall be at least one adult supervisor in addition to the driver in either of the following circumstances:

1. There are more than 3 children who are either under 2 years of age or have a handicap which limits their ability to respond in an emergency.
2. There are more than 10 children under 5 years of age in the vehicle.

(c) After transporting a child to his or her destination, an adult shall wait until the child enters the building or is in the custody of an adult designated by the parent, unless otherwise authorized by the parent of a school-age child.

(d) A seat in the vehicle shall be provided for each child. In determining seating capacity for a vehicle not required to have seat belts, at least 13 inches for seating shall be allowed for a child and 20 inches for an adult.

**(6) REGULARLY SCHEDULED TRANSPORTATION.** (a) When regularly scheduled transportation is provided by a center, the center shall maintain the following information in writing at the center and in each vehicle:

1. A list of children transported.
2. The transportation route and scheduled stops.
3. The name and address of the person authorized to receive a child if the child is dropped off at a place other than the child's residence.
4. Procedures to be followed when the parent or designated authorized adult is not at home to receive the child.

(b) The center shall maintain written safety precautions to be followed and implemented when transporting handicapped children who have a limited ability to respond in an emergency.

(c) When transportation services are contracted or chartered, the name, address and telephone number of the contracting firm and the name of a representative of the firm who may be contacted after hours shall be on file at the center.

**(7) CENTER VEHICLES.** (a) When a center in order to transport children uses a center-owned or leased vehicle or arranges for operation of a vehicle by other than a licensed contract motor carrier, the following additional requirements apply:

(b) The vehicle shall be in safe operating condition and at 12-month intervals the licensee shall provide the department with evidence of the vehicle's safe operating condition on a form provided by the department.

(c) The vehicle shall be equipped with a first aid kit.

Note: Copies of form CFS-52, Vehicle Safety Inspection Report, may be obtained from the Forms Center, Division of Children and Family Services, P.O. Box 7851, Madison, Wisconsin 53707-7851.

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97.

**HFS 46.09 Additional requirements for infant and toddler care.** **(1) APPLICABILITY.** Group day care centers providing care and supervision to infants and toddlers shall comply with the additional requirements of this section.

(a) Prior to admission, an interview shall be conducted with a child's parent or guardian to obtain written information which will aid child care workers in individualizing the program of care for the child. Information shall include all of the following:

1. Schedule of meals and feeding.
2. Types of food introduced and timetable for new foods.
3. Toileting and diapering procedures.
4. Sleep and nap schedule.
5. The child's way of communicating and being comforted.
6. Developmental and health history.

(b) Admission information for an infant or toddler shall be on file in the room or area to which the child is assigned and shall be known to the child care worker.

(c) Child care workers shall document changes in a child's development and routines every 3 months based on discussion with the parent.

(d) An infant or toddler shall be assigned to a specific self-contained room or area with a regularly assigned child care worker and may not be transferred to another group or room in order to adjust group sizes or staff-to-child ratios, except:

1. During opening and closing hours.
2. When the number of children in care is one or 2 children to one child care worker.

(e) The regularly assigned child care teacher and assistant child care teacher for each group of infants and toddlers shall have a minimum of 10 hours of training in infant and toddler care approved by the department within 6 months after assuming the position. If the training is not part of the required entry-level training under s. HFS 46.05 (1) (d) or (e), it shall be obtained through continuing education.

(f) Infants and toddlers are restricted to first floors and ground floors having direct grade-level exits.

(g) Safety gates shall be provided at open stairways.

(h) The space occupied by permanently erected cribs shall be deducted in determining the 35 square feet space requirement under s. HFS 46.06 (7) (a) for each child.

(i) The number of children under one year of age admitted at any one time may not exceed the number of cribs and playpens.

**(2) DAILY PROGRAM.** (a) Child care workers shall respond promptly to a crying child's needs.

(b) Each infant and each toddler shall be allowed to form and follow his or her own pattern of sleeping and waking.

(c) Emphasis in activities shall be given to play as a learning and growth experience.

(d) Throughout the day each infant and each toddler shall receive physical contact and attention such as being held, rocked, talked to, sung to and taken on walks inside and outside the center.

(e) Routines relating to activities such as taking a nap, eating, diapering and toileting shall be used as occasions for language development and other learning experiences.

(f) When a non-walking child is awake, the child care worker shall change the child's body position and location in the room periodically.

(g) The non-walking child who can creep or crawl shall be given opportunities during each day to move freely by creeping and crawling in a safe, clean, open, warm and uncluttered area.

(h) Child care workers shall encourage infants and toddlers to play with a wide variety of safe toys and objects.

(i) Infants and toddlers shall be taken outdoors for part of each day except during inclement weather or when this is not advisable for health reasons.

(j) Equipment shall be provided to take infants and toddlers out of doors for a walk.

(k) An adult-size rocking chair or other adult-size chair shall be provided for each child care worker for the purpose of holding and rocking children.

**(3) FEEDING.** (a) Child care workers shall do all of the following:

1. Feed each infant and each toddler on the child's own feeding schedule.

2. Ensure that food and formula brought from home are labeled with the child's name and dated, and are refrigerated if required.

3. Ensure that formula prepared by the center is of the commercial, iron-enriched type and mixed according to the manufacturer's directions.

4. Except as provided in subd. 6., provide formula or breast milk to all children under 6 months of age.

5. Except as provided in subd. 6., provide breast milk, formula or Grade A pasteurized vitamin D whole milk to all children 6 months to 12 months of age.

6. Provide a type of milk other than a type under subd. 4. or 5., or a milk substitute, only on the written direction of the child's physician.

7. Discard leftover milk or formula after each feeding and rinse bottles after use.

8. Offer drinking water to infants and toddlers several times daily.

9. Hold a child unable to hold a bottle whenever a bottle is given. Bottles may not be propped.

10. Cover, date and refrigerate commercial baby food containers which are opened and foods prepared in the center which are stored. If not used within 36 hours, leftover food shall be discarded.

11. Hold or place a child too young to sit in a high chair in an infant seat during feeding. Wide-based high chairs, hook-on chairs or infant seats with safety straps shall be provided for children who are not developmentally able to sit at tables and chairs.

12. Encourage children to experiment with self-feeding with their hands and spoons. Eating utensils and cups shall be scaled to the size and developmental level of the children.

13. Offer a variety of nourishing foods to each child, such as cereal, vegetables, fruit, egg yolks and meat, according to the child's developmental level and the parent's feeding schedule.

14. Refrain from feeding a child directly from commercial food containers.

15. Refrain from heating breast milk in a microwave oven.

(b) Procedures for heating infant formula, milk and food in a microwave oven shall be posted near the microwave oven. Child care workers shall follow the posted procedures for heating food, milk and formula.

**(4) DIAPERING AND TOILETING.** (a) Child care workers shall do all of the following:

1. Plan toilet training in cooperation with the parent so that a child's toilet routine is consistent between the center and the child's home, except that no routine attempts may be made to toilet train a child under 18 months of age.

2. Change wet or soiled diapers and clothing promptly.

3. Change each child on an easily cleanable surface which is cleaned with soap and water and a disinfectant solution after each use with a chlorine bleach solution of one tablespoon bleach to one quart of water, made fresh daily.

4. If the diapering surface is above floor level, provide a barrier or restraint to prevent falling. A child may not be left unattended on the diapering surface.

5. Place disposable soiled diapers and gloves, if used, in a plastic-lined, foot-activated, covered container immediately.

6. Place parent-supplied soiled cloth diapers in labeled plastic bags which are kept separate from other clothing.

7. Place center-supplied soiled cloth diapers in a plastic-lined, covered container for washing by a commercial diaper service.

8. Remove soiled diapers from containers as needed but at least daily for washing or disposal. Containers shall be washed and disinfected daily.

9. Wash hands with soap and running water before and after each diapering or assistance with toileting routines. For children under one year, hands may be washed with soap and a fabric or paper washcloth.

10. Apply lotions, powders or salves to a child during diapering only at the specific written direction of the child's parent or the child's physician. The directions shall be recorded and posted in the diapering area.

11. Wash the child's diaper area before each diapering with a disposable or fabric towel used only once.

(b) Each self-contained classroom or area serving infants or toddlers who are diapered shall have a sink with hot and cold running water which is not used for food preparation or dishwashing within the room or area.

(c) There shall be a solid barrier between the diapering area and any food preparation area.

(d) There shall be a supply of dry and clean clothing and diapers sufficient to meet the needs of all the children at the center.

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97.

**HFS 46.10 Exceptions and additional requirements for care of school-age children.** (1) **APPLICABILITY.** This section applies to group day care centers that serve only school-age children and group day care centers that serve school-age children in groups separate from children who are under 5 years of age. This section does not apply to group day care centers where school-age children are served in groups with children under 5 years of age.

(2) **EXCEPTIONS FOR GROUP DAY CARE CENTERS SERVING ONLY SCHOOL-AGE CHILDREN.** All requirements under ss. HFS 46.04 to 46.08 and 46.12 apply to group day care centers serving school-age children, except for the following requirements:

(a) Section HFS 46.06 (2) (b) but only in regard to protection of electrical outlets.

(b) Section HFS 46.06 (8) (d) and (e) relating to shelves and storage space for clothing and personal belongings.

(c) Section HFS 46.06 (11) (d) concerning a permanent enclosure of outdoor space. Where hazards exist, such as traffic or bod-

ies of water, the boundaries of outdoor play space shall be made known to the children.

(d) Section HFS 46.05 (1) (e) 2., relating to training for assistant child care teachers.

(e) Section HFS 46.05 (3) (b), relating to supervision of children, does not apply to children 8 years of age and older in the building.

(3) EXCEPTIONS FOR GROUP DAY CARE CENTERS SERVING ONLY SCHOOL-AGE CHILDREN IN SCHOOL BUILDINGS. The following requirements do not apply to group day care centers serving only school-age children in school buildings currently in use as school buildings:

(a) Section HFS 46.05 (1) (e) 2., relating to training for assistant child care teachers.

(b) Section HFS 46.06 (1) (a) on maintaining a building inspection report.

(c) Section HFS 46.06 (4) (a) on fire extinguishers.

(d) Section HFS 46.06 (4) (j) on testing smoke detectors and fire alarms.

(e) Section HFS 46.06 (6) (b) on testing well water.

Note: The requirements in pars. (b) to (e) do not apply to centers serving only school-age children in school building because school buildings are covered in chs. LLHR 56 and NR 109.

(4) ADDITIONAL REQUIREMENTS FOR GROUP DAY CARE CENTERS SERVING SCHOOL-AGE CHILDREN. (a) *Supervision*. 1. A center serving school-age children is responsible for the health, safety and well-being of a child between the time the child arrives at the center and the time the child is released to the parent or to another activity which is specifically authorized in writing by the parent.

2. The center shall have on file an agreement, signed by the parent, which specifies the attendance schedule to be followed and authorizes the child's release to activities away from the center.

Note: A copy of the school-age release form may be obtained from the Forms Center, Division of Children and Family Services, P. O. Box 7851, Madison, Wisconsin 53707-7851.

3. School-age children 8 years of age and older may be authorized by staff to participate in activities in the building away from direct supervision by center staff.

(b) *Staff qualifications*. 1. The administrator of a center serving only school-age children shall meet the requirements in s. HFS 46.05 (1) (b) 2. and 3. or the requirements in s. HFS 46.05 (1) (b) 2. along with department-approved experience, credits or courses in elementary education, physical education, child guidance or recreation or other department-approved training.

2. A center director or child care teacher of a center serving only school-age children shall meet the requirements of s. HFS 46.05 (1) (c) or (d), as appropriate, or shall substitute for those requirements department-approved experience, credits or approved courses in elementary education, physical education, child guidance, recreation or other department-approved training.

3. Each assistant child care teacher shall have satisfactorily completed 10 hours of training in the care of school-age children or equivalent as approved by the department within 6 months after assuming the position.

(c) *Program*. A center serving school-age children shall have a planned program which provides a change from the routine of school through provision of:

1. Rest and quiet areas.
2. Recreational activities, including outdoor and active play.
3. Freedom for children to select and plan their own activities.

(d) *Meals and snacks*. 1. Children enrolled in school who are attending the center when a meal or snack is served shall be offered the meal or snack.

2. School-age children present after school shall be served a snack.

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97.

#### HFS 46.11 Additional requirements for night care.

(1) *APPLICABILITY*. Group day care centers which operate during any period of time between 9:00 p.m. and 5:00 a.m. shall comply with the additional requirements of this section.

(2) *GENERAL REQUIREMENTS*. (a) A center offering night care may serve no more than 20 children at any one time between 9:00 p.m. and 5:00 a.m. unless the building is equipped with emergency lighting supplied by a stand-by power source.

(b) When the same premises are used for the operation of both day care and night care, the number of children during any overlapping of the day care and night care periods may not exceed the maximum licensed capacity of the center.

(c) Minimum staff-child ratios and group sizes as specified in s. HFS 46.05 (4) shall be maintained during night care.

(d) All child care workers on duty shall remain awake during night care.

(e) The parent or center shall provide each child in night care with an individually labeled sleeping garment and a toothbrush.

(3) *PROGRAM*. (a) Child care staff shall work with a child's parent to coordinate how the child spends his or her time during night care at the center with the family's schedule.

(b) A center offering night care shall provide a self-contained room away from sleeping children where an awake child can engage in activities.

(c) An evening and morning schedule of program activities shall be planned for the hours that children in night care are awake.

(d) School-age children shall have an opportunity to read or do school work.

(4) *PREVENTIVE MEASURES*. (a) Child care workers shall be given training in techniques of evacuating sleeping children in an emergency during orientation to the job.

(b) Centers operating during hours of darkness shall provide emergency lighting, such as an operable flashlight, for each self-contained room used by children.

(5) *FEEDING*. (a) Breakfast shall be served to all children in care for the night, unless the parent specifies otherwise.

(b) A nighttime snack shall be available to all children in care.

(c) A child present at the time the evening meal is served shall be served the evening meal.

(6) *SLEEP*. (a) Children who attend the center for the evening hours but not the whole night shall have an opportunity to sleep, as needed.

(b) Sleep routines for individual children shall be based on information provided by the parents.

(c) A bed, crib or cot with sheets and blankets or a sleeping bag, individual to each child, shall be provided in night care.

(d) The center shall maintain a supply of extra sleeping garments and bedding for emergencies and accidents.

(e) Children under 2 years of age in night care shall sleep in cribs.

History: Cr. Register, January, 1997, No. 493, eff. 8-1-97.

**HFS 46.12 Licensing administration. (1) INQUIRY.** A person making an inquiry to the department about obtaining a group day care center license shall be:

(a) Provided with a copy of this chapter.

(b) Given other written materials or listings of publications about establishing a day care center.

(c) Offered an opportunity to meet with a representative of the department to discuss the materials.

(d) Supplied with the necessary application form if licensing is desired.

(e) If licensing is desired, assisted through the licensing process by a representative of the department.

(2) *APPLICATION*. (a) An applicant for a license shall submit an application at least:

1. Sixty days before the date proposed for the center to begin operating.

2. Thirty days before the end of the current licensing period, in the case of a renewal.

3. Forty-five days before opening an additional center.

4. Thirty days before changing the address of the center.

5. Thirty days before a new owner takes over the center.

(b) An applicant for an initial license shall include all the following with the application form:

1. A signed statement by the applicant accepting legal responsibility for complying with this chapter.

2. The articles of incorporation and by-laws if the center is organized as a corporation, association or cooperative.

3. A diagrammatic floor plan of the center, showing room dimensions and room usage for all areas to be used by children, and a diagram of the outdoor area, including area dimensions, location and enclosures.

4. A written delegation of administrative authority signed by the licensee which outlines the organizational structure and designates, in a chain of command form, those persons on the premises in charge of the center for all hours of operation.

5. A signed notarized statement on a form provided by the department concerning any specified criminal conviction or pending charge.

6. The license fee.

7. The fee for a criminal records check on the applicant.

8. All forfeitures due and owing prior to license issuance.

Note: A license application form for a group day care center may be obtained from any field office of the Department's Division of Children and Family Services, and a completed form should be submitted to the same office. See Appendix A for addresses of the field offices.

Note: A copy of the background character verification form, CFS-64, may be obtained from the Forms Center, Division of Children and Family Services, P.O. Box 7851, Madison, Wisconsin 53707.

(c) Within 20 working days after receiving an application for an initial license, a representative of the department shall contact the applicant in person or by phone and provide a checklist for the applicant to use in meeting requirements which shall cover all of the following:

1. Necessary building inspections.
2. Required program equipment, furnishings and supplies.
3. Requirements for staffing and staff qualifications.
4. Required safety, sanitation, equipment and supplies.
5. Required written policies and procedures.

(d) When the applicant for an initial license determines that all requirements on the checklist have been met, the applicant shall notify the department's licensing representative.

(e) Within 20 working days after the notification under par. (d), the department's licensing representative shall survey the day care center site to determine if the applicant has complied with all the requirements of this chapter.

(f) 1. If the department has reason to believe that the physical or mental health of any person associated with the care of children at the center might endanger children in care, the department may require that a written statement be submitted by a physician or, if appropriate, by a licensed mental health professional.

2. The requirement for a written statement by a physician or licensed mental health professional shall be approved by the director of the division's bureau of regulation and licensing before being imposed.

3. The written statement shall certify the condition of the individual and the possible effect on the day care center or children of that condition.

4. The department may deny or revoke the license if the examination gives reasonable concern for the care of children.

(g) If an applicant for an initial license is found to be in compliance with all applicable requirements of this chapter, the de-

partment shall issue a group day care center license within 5 working days after the date on which the survey under par. (e) was completed.

(h) If an applicant for an initial license is found to be not in compliance with all applicable requirements of this chapter, the department shall specify in writing the areas of non-compliance and the applicant shall be given an opportunity to make the necessary changes and shall be re-surveyed within 20 working days after notifying the department's licensing representative that the center is ready to be surveyed again.

(3) BACKGROUND SCREENING. (a) *Definition.* In this subsection:

1. "Adult resident" means a person 18 years or older who lives at a day care center with the intent of making that day care center his or her home or who lives for more than 30 days cumulative in any 6-month period at the day care center.

2. "Employee" means a person hired for a wage or salary, a person volunteering to take the place of an employee or person required to meet staff-to-child ratios in the day care center or a person compensated from other sources who is in regular contact with a child in the care of the licensee.

(b) *Criminal records check.* 1. Prior to the issuance of an initial license, the renewal of the license and at any time the department considers appropriate, the department shall do all of the following:

a. Obtain a notarized background verification form, CFS-64, from the applicant or licensee, each adult resident of the day care center and adult members of the licensee's household who work in the center.

b. Obtain criminal record checks from the Wisconsin department of justice indicating that the applicant or licensee and any adult resident of the day care center are not the subject of pending criminal charges and have no records of convictions for crimes which substantially relate to the care of children or the operation of the center or convictions specified in s. 48.65 (1m) (g), Stats.

c. Require an applicant, licensee, employee, or adult resident of the day care center who has been a non-resident of Wisconsin at any time within the 5 years preceding the date of the criminal records check investigation to be photographed and fingerprinted on 2 fingerprint cards which may be submitted by the Wisconsin department of justice to the federal bureau of investigation for the purpose of obtaining the person's criminal arrest and conviction record.

d. Obtain criminal record checks from the Wisconsin department of justice on members of the licensee's household who work in the center.

2. The department shall not permit a person to be licensed to operate a day care center or to be in regular contact with a child receiving care from the day care center until the information from the Wisconsin department of justice and the federal bureau of investigation, if applicable, is satisfactory, as specified in subd. 1. b.

3. The department may charge a fee for conducting a background investigation. The fee may not exceed the reasonable cost of conducting the investigation.

4. Prior to issuance of the initial license and prior to renewal of the license, the applicant or licensee shall do all of the following:

a. Obtain a notarized background verification form, CFS-64, from all current and prospective employees and all current and prospective adult residents of the day care center.

b. Obtain a criminal records check from the Wisconsin department of justice for each employee and prospective employee indicating that the person is not the subject of pending criminal charges and has no record of convictions for crimes which substantially relate to the care of children, the operation of the center or convictions specified in s. 48.65 (1m) (g), Stats.

c. Require an employe or a prospective employe, who has been a non-resident of Wisconsin at any time within 5 years preceding the date of the investigations to be photographed and fingerprinted on 2 fingerprint cards which may be submitted by the Wisconsin department of justice to the federal bureau of investigation for the purpose of obtaining the person's criminal conviction record and record of pending criminal charges.

d. Require that each adult student teacher placed for a student practicum by an institution of higher education obtain a notarized background verification form, CFS-64, and a criminal record check from the Wisconsin department of justice.

6. The applicant or licensee shall not permit an employe, prospective employe or other person subject to a criminal records check to be in regular contact with a child receiving care from the licensee until the information from the Wisconsin department of justice and the federal bureau of investigation, if applicable, is satisfactory as specified in subd. 1. b.

7. If a person subject to a criminal records check responds on the notarized background verification form, CFS-64, with a "no" to questions related to criminal convictions, child abuse and neglect or elder abuse, that person may be employed or permitted to be an adult resident conditioned on receipt of information from the federal bureau of investigation, if applicable, indicating that the person's conviction record under the law of any other state or under federal law is satisfactory according to criteria specified in s. 48.65 (1m) (g), Stats.

8. A licensee or applicant may provisionally employ a person in a position in which that person would have regular contact with a child in care or provisionally permit a person to be an adult resident of the day care center if the notarized background verification form, CFS-64, for the person indicates that the person does not have any pending criminal charges or convictions that could adversely affect the child or the ability of the day care center to care for the child or which are substantially related to the care of children or the operation of the day care center.

9. The licensee or applicant may not finally employ a person or finally permit a person to be an adult resident of the day care center who would have regular contact with a child for whom care is provided unless the person's record under the laws of this state is satisfactory according to criteria specified in subd. 1. b.

10. The licensee shall submit a criminal records check request to the Wisconsin department of justice within 2 working days after hiring a new employe. A new employe shall work under the general supervision of another adult until a criminal records check which is satisfactory according to the criteria under subd. 1. b. is received.

(c) *Nurse aide registry check.* 1. The department shall check its nurse aide registry under s. HSS 129.10 for an applicant who has had experience as a nurse assistant, home health aide or hospice aide, as defined in s. HSS 129.03, to determine if there is a substantiated finding that the applicant has abused or neglected a client or misappropriated funds or property of the client.

2. The applicant and licensee shall check the department's nurse aide registry under s. HSS 129.10 for employes or adult residents of the day care center who have experience as a nurse assistant, home health aide or hospice aide, as defined in s. HSS 129.03, to determine if there is a substantiated finding of abuse or neglect of a client or misappropriation of funds or property of the client.

*Note:* A copy of the Notarized Background Verification Form CFS-64, may be obtained from the Forms Center, Division of Children and Family Services, P. O. Box 7851, Madison, Wisconsin 53707-7851.

*Note:* A criminal records check request form may be obtained from the Department of Justice, Crime Information Bureau. Attention: Records Check Unit, P. O. Box 2718, Madison, Wisconsin 53701-2718.

*Note:* Wisconsin's Fair Employment Law, ss. 111.31 to 111.295, Stats., prohibits discrimination in employment because of criminal conviction or pending charge, unless the record or charge substantially relates to the circumstances of the particular job or licensed job or licensed activity.

*Note:* The Department's registry for nurse assistants, home health aides and hospice aides may be reached by calling (608) 266-5545 or (608) 267-2374 in order to obtain the information needed from an automated voice response unit.

(4) **AMENDMENT TO LICENSE.** (a) A licensee shall submit to the department a written request for an amendment to the license if the licensee wishes to change a term of the license such as a change in the number of children, the age range of the children, the hours of the center's operation, the days of the week the center is in operation, the months of the year the center is in operation or the name of the center.

(b) No change may be made by the licensee that affects a condition of the license without prior written approval of the department.

(c) A licensee proposing to increase the licensed capacity of a center shall demonstrate compliance with this chapter in the operation of the existing center and compliance with rules for any other facility licensed by the department and operated by the licensee.

(5) **ADDITIONAL LICENSE.** A licensee applying for a license for an additional center location shall demonstrate compliance with this chapter in the operation of the existing center and compliance with rules for any other facility licensed by the department and operated by the licensee.

(6) **LICENSE RENEWAL.** (a) A license shall be in effect for the period of time specified by the department unless sooner suspended or revoked.

(b) At least 60 days before expiration of a group day care center license, the department shall send an application form for license renewal to the licensee along with a questionnaire concerning any changes in conditions of the license and a form for a group day care center compliance study to be filled out by the applicant for license renewal.

(c) An applicant for license renewal shall submit to the department the following materials:

1. A completed license renewal application and questionnaire.
2. A completed group day care center compliance study.
3. A license renewal fee.
4. A fee for a criminal records check for the licensee, if applicable.

(d) A licensee who fails to submit materials described in par. (c) by the expiration date of a license no longer holds title to the license and may not continue to operate the day care center.

(7) **LICENSE DENIAL OR REVOCATION.** (a) The department may deny, revoke, refuse to renew or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on the license if any of the following apply to the applicant or licensee, a proposed or current employe, a volunteer or any other person having regular contact with the children:

1. Is the subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the center.
2. Has been convicted of a felony, misdemeanor or other offense which substantially relates to the care of children or activities of the center.
3. Has been determined to have abused or neglected a child pursuant to s. 48.981, Stats., or has been determined to have committed an offense which substantially relates to the care of children or the activities of the center.
4. Has been the subject of a substantiated finding of misconduct in the department's nurse aide registry under s. HSS 129.10.
5. Is the subject of a court finding that the person has abandoned his or her child, has inflicted sexual or physical abuse on a child or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care

or shelter for his or her child or ward or a child in his or her care so as to seriously endanger the physical health of the child.

6. Has had a child care license revoked or denied within the last 5 years.

7. Has violated any provision of this chapter or ch. 48, Stats., or fails to meet the minimum requirements of this chapter.

8. Has made false statements on the notarized background character verification form.

**Note:** Examples of charges and offenses the department will consider in making a determination under this paragraph that an act substantially relates to the care of children are: abuse or neglect of a child; sexual assault; abuse of a resident of a facility; a crime against life and bodily security; kidnapping; abduction; arson of a building or of property other than a building; robbery; receiving stolen property from a child; a crime against sexual morality, such as enticing a minor for immoral purposes or exposing a minor to harmful materials; and interfering with the custody of a child. The list is illustrative. Other types of offenses may be considered.

(b) The department may deny, revoke, refuse to renew or suspend a license, initiate other enforcement actions specified in this chapter or in ch. 48, Stats., or place conditions on the license if the applicant or licensee is not fit and qualified. In determining whether an applicant is fit and qualified, the department shall consider any history of civil or criminal violation of statutes or regulations of the United States, this state or any other state substantially related to the care of children or activities of a day care center by the applicant, licensee, administrator, center director, representative, employe, household member or other individual directly or indirectly participating in the operation of the day care center.

**(8) EFFECT OF NOTICE TO DENY OR REVOKE A LICENSE.** If the department decides under sub. (7) to deny the grant of a license or to revoke a license, the department shall provide the applicant or licensee with a written notice of its decision, including the reasons for denial or revocation. In the case of a revocation, the revocation shall take effect 30 days after the date of the notice unless the decision is appealed under sub. (9). Upon receipt of that notice and during any revocation or denial procedures which may result, a day care center may not accept for care any child not enrolled as of the date of receipt of the notice without the written approval of the department.

**(9) APPEAL OF DECISION TO DENY OR REVOKE A LICENSE.** Any person aggrieved by the department's decision to deny an initial license or the renewal of a license or to revoke a license may request a hearing on that decision under s. 227.42, Stats. The request for a hearing shall be in writing, shall be filed with the department of administration's division of hearings and appeals and shall be sent to that office so that it is received in that office within 10 days after the date of the notice under sub. (8). A request for a hearing is considered filed upon its receipt by the division of hearings and appeals.

**Note:** A request for a hearing should be submitted to the Division of Hearings and Appeals, P.O. Box 7875, Madison, Wisconsin 53707.

**(10) SUMMARY SUSPENSION OF A LICENSE.** (a) Under the authority of s. 227.51 (3), Stats., the department shall summarily suspend a license and therefore close a group day care center when

the department finds that this action is required to protect the health, safety or welfare of the children in care. A finding of a requirement for summary suspension of the license may be based on but is not limited to any of the following:

1. Failure of the licensee to provide environmental protections for the children, such as heat, water, electricity or telephone service.

2. The licensee, an employe, a volunteer or any other person in regular contact with the children in care has been convicted of or has a pending charge for a crime against life or bodily injury.

3. The licensee, an employe, a volunteer or any other person in regular contact with the children in care has been convicted of a felony, misdemeanor or other offense which substantially relates to the care of children or activities of the center or has a pending charge which substantially relates to the care of children or activities of the center.

4. The licensee, employe, volunteer or any other person in regular contact with the children in care is the subject of a current investigation for alleged child abuse or neglect pursuant to s. 48.981, Stats., or has been determined to have abused or neglected a child.

5. The licensee or a person under the supervision of the licensee has committed an action or has created a condition relating to the operation or maintenance of the day care center that directly threatens the health, safety or welfare of any child under the care of the licensee.

(b) An order summarily suspending a license and therefore closing a group day care center may be a verbal order by a licensing representative of the department. Within 72 hours after the order takes effect, the department shall either permit the reopening of the center or proceed under subs. (7) to (9) to revoke the license. A preliminary hearing shall be conducted by the department of administration's division of hearings and appeals, within 10 working days after the date of the initial order to close, on the issue of whether the license shall remain suspended during revocation proceedings.

**History:** Cr. Register, January, 1997, No. 493, eff. 8-1-97.

**HFS 46.13 Complaints. (1)** Anyone having a complaint about a licensed or illegally operating group day care center may submit that complaint to the department by telephone, letter or personal interview. Every complaint shall be investigated by a representative of the department. The department shall send a written report of the findings of the investigation to the complainant upon request.

**(2)** The licensee may not discharge an employe because that employe has reported violations of this chapter to the licensing representative.

**Note:** A complaint should be submitted to a field office of the department's division of children and family services. See Appendix A for addresses and telephone numbers of the field offices.

**History:** Cr. Register, January, 1997, No. 493, eff. 8-1-97.

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