

State of Wisconsin



2015 Senate Bill 304

Date of enactment: **February 4, 2016**
Date of publication*: **February 5, 2016**

2015 WISCONSIN ACT 132

AN ACT relating to: amending various rules promulgated by the Department of Children and Families governing the certification of child care operators, governing the licensing of child welfare agencies, and establishing standards for the operation of child care centers; and eliminating rules promulgated by the Department of Children and Families related to retaining public assistance case records.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. DCF 54.02 (3) (d) 1. of the administrative code is amended to read:

DCF 54.02 (3) (d) 1. At least ~~3 weeks~~ 30 days prior to the ~~expiration~~ continuation date of the current ~~licensing~~ license.

SECTION 2. Ch. DCF 121 of the administrative code is repealed.

SECTION 3. DCF 201.02 (2m) of the administrative code is amended to read:

DCF 201.02 (2m) "Certification agency" means the department in a county having a population of ~~500,000~~ 750,000 or more; a county department of social services established under s. 46.22, Stats.; a county department of human services established under s. 46.23, Stats.; a tribal agency; or any agency that ~~has a contract~~ contracts with the department any of those entities to certify child care providers under s. 48.651, Stats., ~~and ch. DCF 202 in a particular county or tribal area.~~

SECTION 4. DCF 201.06 (3) (b) of the administrative code is repealed.

SECTION 5. DCF 202.01 (2) of the administrative code is amended to read:

DCF 202.01 (2) **APPLICABILITY.** This chapter applies to ~~county and tribal certification~~ agencies and to all providers of child care who receive reimbursement with state or federal child care funds and who are not required to be licensed under s. 48.65, Stats., including providers of child care for 1 to 3 children, providers of child care for a child in the child's home, and providers of child care for school-age children.

SECTION 6. DCF 202.02 (1) of the administrative code is repealed.

SECTION 7. DCF 202.02 (1s) of the administrative code is created to read:

DCF 202.02 (1s) "Certification agency" means the department in a county having a population of ~~500,000~~ 750,000 or more; a county department of social services established under s. 46.22, Stats.; a county department of human services established under s. 46.23, Stats.; a tribal agency; or any agency that contracts with any of those entities to certify child care operators under s. 48.651, Stats.

SECTION 8. DCF 202.02 (2) of the administrative code is amended to read:

DCF 202.02 (2) "Certified child care home" or "home" means the residence in which the certified child care operator provides care of children and which meets

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

the standards under s. DCF 202.08 for reimbursement of care by ~~county or tribal~~ certification agencies.

SECTION 9. DCF 202.02 (3h) of the administrative code is amended to read:

DCF 202.02 (3h) “Child care certification worker” means a person employed by ~~a county, a governing body of a federally recognized American Indian tribe, or an agency under contract with a county or tribe~~ whose duties include determination of eligibility for child care certification.

SECTION 10. DCF 202.02 (4) of the administrative code is repealed.

SECTION 11. DCF 202.02 (14) of the administrative code is amended to read:

DCF 202.02 (14) “Physician’s Physician assistant” means a health care professional certified under s. 448.04 (1) (f), Stats., and ch. Med 8.

SECTION 12. DCF 202.04 (3) (a) of the administrative code is amended to read:

DCF 202.04 (3) (a) *Form.* Application for certification shall be made on a form available from the ~~county or tribal~~ certification agency in the county or tribal territory where the child care is provided. The applicant shall submit the completed form to that ~~county or tribal~~ certification agency.

SECTION 13. DCF 202.04 (3) (d) of the administrative code is amended to read:

DCF 202.04 (3) (d) *Compliance with standards and certification.* The ~~county or tribal~~ certification agency shall process all certification applications as follows:

1. If the application is for certification under sub. (2) (a), the ~~county or tribal~~ certification agency shall review the application for compliance with standards under s. DCF 202.08 prior to issuing a certificate.

2. If the application is for certification under sub. (2) (b), the ~~county or tribal~~ certification agency shall refer the application to a licensing representative in the department regional office. The licensing representative shall determine whether the applicant is in compliance with all standards under s. DCF 202.09 and report back to the ~~county or tribal~~ certification agency. The ~~county or tribal~~ certification agency may issue a certificate based on the licensing representative’s report.

SECTION 14. DCF 202.04 (3) (e) (intro.) of the administrative code is amended to read:

DCF 202.04 (3) (e) *Approval.* (intro.) Within 60 days after receiving a completed application for certification or recertification and satisfactory investigation and determination that the applicant is fit, the ~~county or tribal~~ certification agency shall either approve the application and issue a certificate or deny the application. Fit “Fit” means the applicant displays the capacity to successfully nurture and care for children and includes consideration of any of the following:

SECTION 15. DCF 202.04 (3) (f) of the administrative code is amended to read:

DCF 202.04 (3) (f) The ~~county or tribal~~ certification agency may backdate a certificate of approval to the date that the ~~county or tribal~~ certification agency received the applicant’s completed application for certification.

SECTION 16. DCF 202.04 (4) (a) of the administrative code is amended to read:

DCF 202.04 (4) (a) A ~~county or tribal~~ certification agency may charge a fee for family child care certification not to exceed 150 percent of the licensing fee for a family child care center that provides care and supervision for 4 to 8 children, under s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s. 48.685, Stats.

SECTION 17. DCF 202.04 (4) (b) of the administrative code is amended to read:

DCF 202.04 (4) (b) The ~~county or tribal~~ certification agency may charge a fee for school-age child care certification not to exceed the licensing fee for a group child care center that provides care and supervision for 9 or more children under s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s. 48.685, Stats.

SECTION 18. DCF 202.04 (5) (intro.) of the administrative code is amended to read:

DCF 202.04 (5) CATEGORIES OF FAMILY CERTIFICATION. (intro.) Certification of ~~a provider an operator~~ by a ~~county or tribal~~ certification agency shall be Level I (regular) or Level II (provisional) as follows:

SECTION 19. DCF 202.04 (6) (a) of the administrative code is amended to read:

DCF 202.04 (6) (a) The ~~county or tribal~~ certification agency responsible for certification of ~~a provider an operator~~ shall be determined by the geographic area in which the child care is provided.

SECTION 20. DCF 202.04 (6) (b) of the administrative code is amended to read:

DCF 202.04 (6) (b) Certification issued to ~~a provider an operator~~ by a ~~county or tribal~~ certification agency shall be accepted as valid by all other agencies authorized to certify providers.

SECTION 21. DCF 202.04 (6) (c) of the administrative code is amended to read:

DCF 202.04 (6) (c) The ~~county or tribal~~ certification agency shall ensure that each new day care certification worker completes the department-approved certification training during the first 6 months of employment.

SECTION 22. DCF 202.04 (7) (a) of the administrative code is amended to read:

DCF 202.04 (7) (a) *Qualifications of certified child care operators.* ~~County and tribal~~ Certification agencies shall maintain records demonstrating child care operator compliance with s. DCF 202.08 (1).

SECTION 23. DCF 202.04 (7) (b) 1. of the administrative code is amended to read:

DCF 202.04 (7) (b) 1. ‘General.’ ~~County and tribal~~ Certification agencies shall help assure operator compli-

ance with s. DCF 202.08 (2) to (12) in accordance with this section.

SECTION 24. DCF 202.04 (7) (b) 2. (intro.) of the administrative code is amended to read:

DCF 202.04 (7) (b) 2. 'Required procedures.' (intro.) A ~~county or tribal~~ certification agency shall:

SECTION 25. DCF 202.04 (7) (b) 3. (intro.) of the administrative code is amended to read:

DCF 202.04 (7) (b) 3. 'Optional procedures.' (intro.) A ~~county or tribal~~ certification agency may:

SECTION 26. DCF 202.04 (7) (b) 3. e. of the administrative code is amended to read:

DCF 202.04 (7) (b) 3. e. Require an evaluation and written statement by a physician or licensed mental health professional of any person associated with the care of children or any household resident if the ~~county or tribal~~ certification agency has reason to believe that the person's physical or mental health may endanger children in care. The ~~county or tribal~~ certification agency shall document what reason it has to believe that the person's physical or mental health may endanger children in care.

SECTION 27. DCF 202.04 (8) of the administrative code is amended to read:

DCF 202.04 (8) EXCEPTIONS TO PARTICULAR CERTIFICATION REQUIREMENTS. A ~~county or tribal~~ certification agency may grant an exception to any standard in s. DCF 202.08 or 202.09 if the ~~county or tribal~~ certification agency determines that an alternative means meets the intent of the requirement, except for rules related to criminal background investigation required under s. 48.685, Stats.

SECTION 28. DCF 202.04 (9) of the administrative code is amended to read:

DCF 202.04 (9) CERTIFICATION DECISION AFTER BACKGROUND REVIEW. The ~~county or tribal~~ certification agency shall conduct background reviews in accordance with s. 48.685, Stats. For guidance in resolving issues that arise in particular cases, the ~~county or tribal~~ certification agency shall follow ch. DHS 12, and the crimes table incorporated into ch. DHS 12, and shall apply the standards that apply to licensed child care facilities.

SECTION 29. DCF 202.05 (1) of the administrative code is amended to read:

DCF 202.05 (1) The ~~county or tribal~~ certification agency shall follow the requirements for criminal history and child abuse record search that are contained in s. 48.685, Stats., and ch. DHS 12, and the crimes table incorporated into ch. DHS 12, and shall apply the standards that apply to licensed child care facilities, except the ~~county or tribal~~ certification agency shall require any prospective or current employee, contractor under the control of the certified child care operator, volunteer, or non-client resident to submit the completed background information form to the ~~county or tribal~~ certification agency prior to initial certification and recertification. In

applying the provisions relating to rehabilitation decisions, all decisions and review procedures shall be made and conducted by the ~~county or tribal~~ certification agency.

SECTION 30. DCF 202.05 (2) of the administrative code is amended to read:

DCF 202.05 (2) Each ~~county or tribal~~ certification agency shall maintain its records concerning each person whose certificate is denied, revoked, or not renewed for a reason specified in s. 48.685 (4m) (a) 1. to 5., Stats. The ~~county or tribal~~ certification agency shall report this information to the department's bureau of early childhood education. The ~~county or tribal~~ certification agency shall immediately report the receipt of an application for rehabilitation review and the results of each rehabilitation review to the office of legal counsel of the department of health services.

SECTION 31. DCF 202.06 (1) (intro.) of the administrative code is amended to read:

DCF 202.06 (1) (intro.) The ~~county or tribal~~ certification agency may deny, suspend, revoke, or refuse to renew certification if any of the following apply:

SECTION 32. DCF 202.06 (1) (c) of the administrative code is amended to read:

DCF 202.06 (1) (c) The ~~county or tribal~~ certification agency determines there is danger to the health, safety, or welfare of the children in care.

SECTION 33. DCF 202.06 (1) (e) of the administrative code is amended to read:

DCF 202.06 (1) (e) The child care operator fails to cooperate with the ~~certifying~~ certification agency.

SECTION 34. DCF 202.06 (1) (j) of the administrative code is amended to read:

DCF 202.06 (1) (j) The evaluation under s. DCF 202.04 (7) (b) 3. e. gives the ~~county or tribal~~ certification agency reasonable concern that the person's physical or mental health may endanger children in care.

SECTION 35. DCF 202.06 (2) of the administrative code is amended to read:

DCF 202.06 (2) The ~~county or tribal~~ certification agency shall require a child care operator to submit a new application for certification if the operator's previous certification was denied, revoked, or not renewed for a reason in s. DCF 202.05 or 202.06 (1). The ~~county or tribal~~ certification agency may refuse to accept a new application for 2 years after the date of the denial, revocation, or refusal to renew the certification.

SECTION 36. DCF 202.06 (4) of the administrative code is amended to read:

DCF 202.06 (4) If a ~~county or tribal~~ certification agency denies, suspends, revokes, or refuses to renew a certification, the ~~county or tribal~~ certification agency shall notify the child care operator in writing and give reasons for the action. The action is reviewable pursuant to of a county department of social services established under s. 46.22, Stats., or a county department of human

services established under s. 46.23, Stats., may be appealed under ch. 68, Stats., which provides for administrative review of the decisions of local agencies. Tribal agencies shall use an appeal process equivalent to the process in ch. 68, Stats. In a county with a population of 750,000 or more, a certification agency's action may be appealed under ch. 227, Stats., which provides for administrative review of the decisions of state agencies.

SECTION 37. DCF 202.065 (intro.) of the administrative code is amended to read:

DCF 202.065 Sanctions. (intro.) If a certified child care operator violates the provisions of this chapter, s. 48.685, Stats., or ch. DHS 12, the ~~county or tribal~~ certification agency shall require the operator to submit a plan of correction for violation in writing and may impose any or all of the following sanctions.

SECTION 38. DCF 202.065 (3) of the administrative code is amended to read:

DCF 202.065 (3) Suspend the operator's certification for not more than 60 days. The certification agency shall either reinstate or revoke the certification by the date that the suspension expires.

SECTION 39. DCF 202.07 of the administrative code is amended to read:

DCF 202.07 Complaints. Within 10 working days after a ~~county or tribal~~ certification agency receives a complaint about a certified child care operator, the ~~county or tribal~~ certification agency shall investigate that complaint.

SECTION 40. DCF 202.08 (1) (a) 3. of the administrative code is amended to read:

DCF 202.08 (1) (a) 3. Each family and in-home child care operator shall demonstrate that he or she is free from tuberculosis prior to initial certification and ~~recertification.~~ The. Each family and in-home child care provider shall demonstrate that he or she is free from tuberculosis prior to the date the provider begins working with children. For a child care operator, including a child care provider who is also a child care operator, the certification agency may accept results of a test administered up to 12 months before the application date. For a child care provider who is not also a child care operator, the certification agency may accept the results of a test administered up to 12 months before the date the provider began working with children.

SECTION 41. DCF 202.08 (1) (b) 2. b. of the administrative code is amended to read:

DCF 202.08 (1) (b) 2. b. A ~~county or tribal~~ certification agency may require up to 5 hours of annual continuing education by a Level I (regular) certified ~~provider~~ operator each year following Level I (regular) certification.

SECTION 42. DCF 202.08 (1) (b) 2. c. of the administrative code is amended to read:

DCF 202.08 (1) (b) 2. c. Prior to issuing a Level I (regular) certification, the ~~county or tribal~~ certification

agency may require that an applicant has graduated from high school, has obtained a high school equivalency diploma under s. 115.29 (4), Stats., or has obtained a certificate of general education development under s. PI 5.04.

SECTION 43. DCF 202.08 (1) (c) (intro.) of the administrative code is amended to read:

DCF 202.08 (1) (c) *Reporting changes.* (intro.) A certified family child care operator shall report to the certification agency as soon as possible, but no later than the ~~county or tribal~~ certification agency's next working day, ~~to the agency~~ any changes that affect the certified family child care operator's eligibility for certification under this chapter, including the following:

SECTION 44. DCF 202.08 (1) (d) of the administrative code is amended to read:

DCF 202.08 (1) (d) *Substitutes, employees, and volunteers.* A substitute, employee, or volunteer for a Level I or II child care operator shall be approved by the ~~county or tribal~~ certification agency before employment or volunteer work commences. The ~~county or tribal~~ certification agency shall approve the substitute, employee, or volunteer if the agency has verification that the substitute, employee, or volunteer has met the standards under s. DCF 202.05, regarding the criminal history and child abuse record search, and has completed the training on sudden infant death syndrome and shaken baby syndrome and impacted babies required under par. (b) 1.

SECTION 45. DCF 202.08 (1) (e) 3. of the administrative code is amended to read:

DCF 202.08 (1) (e) 3. Ensure that all information provided to the ~~county or tribal~~ certification agency is current and accurate.

SECTION 46. DCF 202.08 (2) (a) 2m. of the administrative code is repealed.

SECTION 47. DCF 202.08 (2) (g) of the administrative code is amended to read:

DCF 202.08 (2) (g) The home shall have at least one telephone in working order with a list of emergency numbers posted by each telephone, including numbers for the rescue squad, police, fire station, emergency medical care, child protective services agency, and poison control center. The ~~certifying~~ certification agency may prohibit the use of a cellular phone as a primary phone. If a cellular phone is used as a primary phone, it shall be operational during the hours of child care.

SECTION 48. DCF 202.08 (2) (o) of the administrative code is amended to read:

DCF 202.08 (2) (o) If the child care is provided in a rental property, the ~~provider~~ operator shall obtain permission from ~~his or her~~ the landlord to operate a child care business.

SECTION 49. DCF 202.08 (4) (b) of the administrative code is amended to read:

DCF 202.08 (4) (b) The physical examination report shall be made on an electronic printout from a licensed

physician, physician assistant, or health check provider or on a form provided by the department that is signed and dated by a licensed physician, ~~a physician's physician assistant, or a~~ health check provider.

SECTION 49m. DCF 202.08 (4) (b) (note) of the administrative code is created to read:

NOTE: The department's form, Child Health Report – Child Care Centers, or an electronic printout from a medical professional may be used to document a health examination. Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from the certification agency.

SECTION 50. DCF 202.08 (4) (c) of the administrative code is amended to read:

DCF 202.08 (4) (c) The requirement under par. (a) does not apply to a child care operator who requests from the ~~county or tribal~~ certification agency in writing an exemption for a child based upon adherence by the child's parent to religious belief in exclusive use of prayer or spiritual means for healing.

SECTION 51. DCF 202.09 (1m) (c) of the administrative code is amended to read:

DCF 202.09 (1m) (c) Ensure that all information provided to the ~~county or tribal~~ certification agency is current and accurate.

SECTION 52. DCF 202.09 (2) (e) (intro.) of the administrative code is amended to read:

DCF 202.09 (2) (e) *Staff records.* (intro.) The school-age child care program shall maintain a record for each employee ~~which that~~ shall be available to the ~~county or tribal~~ certification agency ~~and includes.~~ The record shall include all of the following:

SECTION 53. DCF 202.09 (4) (a) 2. of the administrative code is amended to read:

DCF 202.09 (4) (a) 2. There shall be a report of inspection filed ~~in the county or tribal~~ with the certification agency that indicates approval of the building by the state department of safety and professional services or by a certified agent of that department. The building shall comply with applicable state and local building codes.

SECTION 54. DCF 202.09 (12) (d) of the administrative code is amended to read:

DCF 202.09 (12) (d) Any vehicle used by the program to transport children shall be in safe operating condition and at 12-month intervals the school-age child care program shall provide evidence of the vehicle's safe operating condition to the ~~county or tribal~~ certification agency.

SECTION 55. DCF 202.09 (14) (intro.) of the administrative code is amended to read:

DCF 202.09 (14) INSURANCE. (intro.) The program shall provide documentation of insurance coverage by submitting to the ~~county or tribal~~ certification agency a certificate of insurance reflecting current dates of coverage for:

SECTION 56. Ch. DCF 203 of the administrative code is repealed.

SECTION 57. DCF 250.04 (2) (g) of the administrative code is amended to read:

DCF 250.04 (2) (g) Provide written information to parents on whether a licensee has insurance coverage on the premises, and on the child care operation and on vehicles if transportation is provided business. Liability insurance on the child care business is required if cats or dogs are allowed in areas accessible to children during the hours of operation as specified in s. DCF 250.07 (7) (h).

SECTION 58. DCF 250.04 (6) (a) 1. of the administrative code is amended to read:

DCF 250.04 (6) (a) 1. Enrollment information and health history on ~~a form~~ forms provided by the department. The enrollment information and health history shall be on file prior to the child's first day of attendance.

SECTION 59. DCF 250.07 (6) (L) 3. of the administrative code is amended to read:

DCF 250.07 (6) (L) 3. The health examination report shall be made on an electronic printout from a licensed physician, physician assistant, or HealthCheck provider or on a form provided by the department and shall be that is signed and dated by a licensed physician, physician assistant, or a HealthCheck provider.

NOTE: The department's form, Child Health Report – Child Care Centers, ~~is or an electronic printout from a medical professional may be used to record document~~ a health examination ~~information.~~ Information on how to obtain the ~~department's~~ form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

SECTION 60. DCF 251.03 (2) of the administrative code is amended to read:

DCF 251.03 (2) “Assistant child care teacher” means a child care worker who works under the supervision of a child care teacher and who meets the qualifications under s. DCF 251.05 (1) ~~(e)~~ (g).

SECTION 61. DCF 251.03 (4) of the administrative code is amended to read:

DCF 251.03 (4) “Center director” means the person who is 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~~ under s. DCF 251.05 (1) ~~(e)~~ (e).

SECTION 62. DCF 251.03 (5) of the administrative code is amended to read:

DCF 251.03 (5) “Child care teacher” means a child care worker who plans, implements, and supervises the daily activities for a designated group of children and who meets the qualifications under s. DCF 251.05 (1) ~~(d)~~ (f).

SECTION 63. DCF 251.04 (5) (a) 4. of the administrative code is amended to read:

DCF 251.04 (5) (a) 4. The physical examination report required under s. DCF 251.05 (1) ~~(j)~~ (L) 1.

SECTION 64. DCF 251.07 (6) (k) 3. of the administrative code is amended to read:

DCF 251.07 (6) (k) 3. The health examination report shall be made on an electronic printout from a licensed physician, physician assistant, or HealthCheck provider or on a form provided by the department and shall be that is signed and dated by a licensed physician, physician assistant, or HealthCheck provider.

NOTE: The department's form, Child Health Report – Child Care Centers, ~~is or an electronic printout from a medical professional may be used to record document a health examination information.~~ Information on how to obtain the department's form is available on the department's website, <http://dcf.wisconsin.gov>, or from any regional licensing office in Appendix A.

NOTE: A HealthCheck provider is a medical professional associated with or employed by 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.

SECTION 65. DCF 251.09 (1) (e) of the administrative code is amended to read:

DCF 251.09 (1) (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. DCF 251.05 (1) ~~(d) or (e) (f) or (g)~~, it shall be obtained through continuing education.

SECTION 66. DCF 251.095 (2) (d) of the administrative code is amended to read:

DCF 251.095 (2) (d) Section DCF 251.05 (1) ~~(e) (g) 2.~~, relating to training for assistant child care teachers.

SECTION 67. DCF 251.095 (3) (a) of the administrative code is amended to read:

DCF 251.095 (3) (a) Section DCF 251.05 (1) ~~(e) (g) 2.~~, relating to training for assistant child care teachers.