

Chapter PW-CY 40

CHILDREN AND YOUTH

PW-CY 40.10	Introduction	PW-CY 40.54	Child care and development
PW-CY 40.11	Organization and administration	PW-CY 40.55	Social services
PW-CY 40.12	Personnel	PW-CY 40.56	Records and reports
PW-CY 40.13	Physical plant and furnishings	PW-CY 40.60	Licensing foster homes
PW-CY 40.14	Program	PW-CY 40.61	Foster parents and their families
PW-CY 40.20	Revocation of licenses, or certifications	PW-CY 40.62	Foster homes
PW-CY 40.25	Rules for the approval of start-up grants for the expansion of child care in Wisconsin	PW-CY 40.63	Care of children
PW-CY 40.40	Introduction	PW-CY 40.64	Additional exceptions to the legal limit of 4 unrelated children
PW-CY 40.41	Organization and administration	PW-CY 40.65	Fair hearings
PW-CY 40.42	Personnel administration	PW-CY 40.70	Definitions
PW-CY 40.43	Social services	PW-CY 40.71	License
PW-CY 40.44	Records and reports	PW-CY 40.72	Personnel standards
PW-CY 40.50	Introduction	PW-CY 40.73	Program standards
PW-CY 40.51	Organization and administration	PW-CY 40.74	Site, facilities and equipment standards
PW-CY 40.52	Personnel administration	PW-CY 40.75	Administration standards
PW-CY 40.53	Building, grounds and equipment	PW-CY 40.76	Health standards
		PW-CY 40.77	Food standards
		PW-CY 40.78	Sanitation standards
		PW-CY 40.79	Safety standards
		PW-CY 40.80	Transportation standards

PW-CY 40.01 Definitions. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.02 Licensing. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.03 Personnel standards. History: 1-2-56; r. Register August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.04 Educational program standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.05 Health standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.06 Administration standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.07 Equipment standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.08 Physical plant standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

PW-CY 40.09 Sanitation standards. History: 1-2-56; r. Register, August, 1970, No. 176, eff. 3-1-71.

Register, July, 1974, No. 223
Public Welfare

LICENSING DAY CARE CENTERS FOR CHILDREN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PW-CY 40.25 Rules for the approval of start-up grants for the expansion of child care in Wisconsin. (1) **GENERAL INFORMATION.** (a) *Statement of intent.* These rules provide for the regulation of the expenditure of the funds which have been appropriated for the expansion of day care in Wisconsin.

(b) *Effect of rules.* The following rules for approval of start-up grants have the full effect and force of law as provided in chapter 227 of the Wis. Stats.

(c) *To whom the rules apply.* The rules apply to all persons, groups or newly operating day care centers making application for start-up grants.

(d) *Exceptions to rules.* The department may make exceptions to any of the rules for approving start-up grants when it is assured that granting such exception is not detrimental to the health, safety and welfare of children.

(e) *Definitions.* The following words, phrases and initials have the designated meanings:

1. Department. Unless qualified, means the state of Wisconsin department of health and social services.

2. Division. Unless qualified, means the division of family services of the department.

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

4. Newly operating center. Means a day care center which has been in operation for a period less than 6 months.

5. Start-up grants. Are money payments or a planned series of money payments to an approved applicant to be used to develop a needed child care service or assist a newly operating center having financial difficulties. The grants are not loans.

6. Child care. For the purposes of these rules means day care for children.

7. Satellite system. For the purposes of these rules is defined as family day care homes, in-home care providers or a combination of both which are centrally organized, coordinated, and administered as a unit in themselves or as an extension of another service/center or as part of the educational/training program of an accredited school of social work or early childhood education.

8. In-home care. Is the care of the child in his own home on a routine planned basis for a period less than 24 hours by a responsible person other than his parents.

9. Family day care. Is the care of the child in a family home other than his own by a responsible person other than the child's parents for a period of time less than 24 hours.

(2) APPLICATION FOR START-UP GRANTS. (a) Application shall be made on a form provided by the department.

(b) Application shall be open to:

1. Individuals or groups planning to establish a voluntary non-profit or a proprietary child care service.

2. Individuals or groups submitting a proposal of a plan for:

a. A new center.

b. Expansion of an existing center to include a new program.

c. A small innovative program around special need.

d. Satellite systems of family day care, in-home care or a combination of both. (See subsection (5) of these rules for information on satellite systems).

3. Newly operating centers which are experiencing financial difficulties.

(c) The individual, group or center making application shall:

1. Have a policy board whose proposal of a plan shall document involvement in the planning of parents who will use the service.

2. Document the need for the specific service to be provided in the area proposed in the plan.

3. Submit written assurance to the appropriate division regional staff that the service to be provided will meet the requirements for Licensing of Day Care Centers for Children (PW-CY 40.10-40.14) and/or the Federal Inter-Agency Day Care Requirements for Certification.

(d) Application from newly operating centers experiencing financial difficulties shall include with part I of the application form:

1. Documentation of expenditures and income for the total period of operation giving special details of financial problem areas.

2. Documentation of need for the service including the target group of parents and/or children they serve.

3. Endorsement from the appropriate division regional staff member that this particular center should receive a start-up grant to continue its operations.

4. Detailed operating budget for the review of any period of operation if requested by the division regional director.

(3) USE OF START-UP GRANTS. (a) Start-up grants may be used for:

1. A specific purchase or budget item related to opening costs including:

- a. Structural changes to meet licensing and building codes.
- b. Necessary equipment to begin operations.
- c. Salary of a staff person or persons for a period not to exceed 12 months.

2. A percentage of the total operating budget for a 12-month period or less.

3. As a substitute for continuation of an in-kind contribution made for a limited period of time which would need to be met by the budget before the program is in full operation, including:

a. In-kind donation of free rent by a church, agency or building owner for a limited period of time.

b. Voluntary services of staff.

(b) Start-up grants shall not be used for:

1. A service which could be funded from other community, state or federal sources. This does not, however, preclude the collaborative use of those funds with start-up grant funds to meet the beginning of a needed service.

2. Administrative or training costs exclusively, but rather only for a percentage of these costs as they relate to total budget if a percentage of operating costs is the basis of the application for a start-up grant.

(4) TIME LIMIT. No subsidy from a start-up grant shall extend beyond a 12-month period.

(5) SATELLITE SYSTEMS OF FAMILY DAY CARE. (a) *Application.*

1. Applications with a proposal for the development of a satellite system of family day care, in-home care, or a combination of both shall be open only to:

- a. An existing center.
- b. A licensed agency giving services to parents and children who may need child care.
- c. A county department of social services.
- d. An accredited college or university offering training in social work or early childhood education.
- e. A corporate community coordinating group concerned primarily with child care.

(b) The satellite system shall have centralized administration which shall include:

1. Recruitment, evaluation and training of the families which will be part of the system.

2. Ongoing training to upgrade the system itself and the quality of the care given.

3. A person who coordinates and supervises the care families in the system and gives or makes available consultation to them on a planned, ongoing basis.

4. An evaluation and approval of each child served and a central file of pertinent data on each child and family.

5. Centralized bookkeeping.

6. Certified homes only.

History: Cr. emerg. eff. 1-23-74; cr., Register, July, 1974, No. 223, eff. 8-1-74.

PW-CY 40.30 Adoptions. History: 1-2-56; r. Register, September, 1970, No. 177, eff. 4-1-71.

LICENSING CHILD PLACING AGENCIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Register, July, 1974, No. 223
Public Welfare

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

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

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

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

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

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

(d) The board shall:

1. Define its responsibilities. These responsibilities shall include:

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

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

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

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

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

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

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