



2013 ASSEMBLY BILL 677

January 27, 2014 - Introduced by Representatives KRUG, LEMAHIEU, ENDSLEY, LOUDENBECK and SPIROS. Referred to Committee on Children and Families.

1 **AN ACT** *to amend* 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e), 13.92 (4) (f), 35.93 (2)
2 (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e) (intro.), 35.93 (3) (e) 1., 227.01 (13)
3 (intro.), 227.11 (2) (intro.) and 227.27 (2); and **to create** 13.92 (4) (bm) and
4 227.265 of the statutes; **relating to:** rule-making procedures; amending
5 various rules promulgated by the Department of Children and Families
6 governing the certification of child care operators, governing the licensing of
7 child welfare agencies, and establishing standards for the operation of child
8 care centers; and eliminating rules promulgated by the Department of Children
9 and Families related to retaining public assistance case records and the
10 transitional jobs demonstration project.

Analysis by the Legislative Reference Bureau

STATUTORY TREATMENTS

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve

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before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

TREATMENTS OF ADMINISTRATIVE RULES***Child care certification***

Under current law, the Department of Children and Families (DCF) regulates the certification of child care operators for the purpose of reimbursement under the Wisconsin Shares child care subsidy program. Under DCF's current rules, agencies that may certify child care operators are called "county and tribal agencies" and include county departments of social services, county departments of human services, and tribal agencies. This bill amends DCF rules to refer to agencies that certify child care operators as "certification agencies." The bill expands the definition to include DCF in a county with a population of 750,000 or more and any agency that certifies child care operators through a contract with DCF, a county department of social services, a county department of human services, or a tribal agency.

DCF's current rules allow any county or tribal agency's action to deny, suspend, revoke, or refuse to renew a child care operator's certification to be appealed under administrative procedures that apply to local units of government. The bill amends DCF rules to specify that an action by DCF in a county with a population of 750,000 or more to deny, suspend, revoke, or refuse to renew a child care operator's certification may be appealed under administrative procedures that apply to state agencies.

DCF's current rules also require a family or in-home child care provider to demonstrate to a county or tribal agency that he or she is free from tuberculosis prior to certification or recertification, and allows the agency to accept tuberculosis test results only if administered up to 12 months before the certification application date. This bill amends DCF rules to allow a child care provider to demonstrate that he or

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she is free from tuberculosis prior to the date that provider began working with children if later than the certification date. The bill also amends DCF rules to allow a certification agency to accept the results of a tuberculosis test administered up to 12 months prior to the date the provider began working with children if later than the certification date.

Child care center operations

Under current law, no person may for compensation provide care and supervision for four or more children under the age of seven for less than 24 hours a day unless that person obtains from DCF a license to operate a child care center. Current law requires DCF to promulgate rules establishing standards for the operation of child care centers.

Those rules include a rule requiring a child care center providing care and supervision for not more than eight children (family child care center) to provide written information to parents on whether the family child care center has insurance coverage on vehicles, if transportation is provided by the family child care center. This bill eliminates that requirement.

Those rules also include a rule requiring a family child care center to maintain for each child enrolled in the family child care center a written record of enrollment information and health history on a form provided by DCF. This bill requires enrollment information and health history to be maintained on separate forms provided by DCF.

In addition, those rules include: 1) a rule requiring a child receiving care from a family child care center or a child care center providing care and supervision for more than eight children (group child care center) to have an initial health examination no later than three months after being admitted to the child care center and to have followup health examinations at certain intervals after that; and 2) a rule requiring a report on such a health examination to be made on a form provided by DCF that is signed and dated by a licensed physician, physician assistant, or HealthCheck provider, which is a provider of health assessment and evaluation services certified by the Department of Health Services. This bill permits a health examination report to be made on an electronic printout from a licensed physician, physician assistant, or HealthCheck provider.

Finally, the bill corrects, in the DCF rules relating to child care, certain cross-references to the rules governing the responsibilities and qualifications of group child care center program directors, teachers, and assistant teachers.

Child welfare agency licensing

Under current law, no person may provide care and maintenance for four or more children for 75 days in a 12-month period unless the person obtains from DCF a license to operate a child welfare agency. A child welfare agency license is valid until revoked or suspended, but must be reviewed every two years. To continue a child welfare agency license for an additional two years, a child welfare agency must submit an application for continuance of the license to DCF at least 30 days prior to the continuation date of the license. If DCF approves the application, DCF must continue the license for an additional two years.

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Current rules promulgated by DCF governing the licensing of child welfare agencies, however, require a subsequent application by a child welfare agency to be submitted to DCF at least *three weeks* prior to the *expiration* of the current license. This bill conforms those rules to the statutes by modifying those rules to require a subsequent application by a child welfare agency to be submitted to DCF at least *30 days* prior to the *continuation date* of the current license.

Public assistance records and transitional jobs demonstration project

The transitional jobs demonstration project, under which DCF provides a wage subsidy to an employer who employs an individual who is at least 21 but not more than 64 years of age, is ineligible for Wisconsin Works (W-2), has an annual household income that is below 150 percent of the poverty line, is unemployed for at least four weeks, and is not eligible to receive unemployment insurance benefits, was repealed on July 1, 2013. This bill eliminates rules DCF was required to promulgate to operate the transitional jobs demonstration project.

Under current DCF rules, a county, tribal, or W-2 agency that contracts with DCF to administer one or more public assistance programs (income maintenance agency) is required to retain certain items used to verify information related to a public assistance case for certain amounts of time. For example, under current DCF rules, an income maintenance agency must retain items to verify an applicant's social security number, birth information, alien status, and medicare enrollment, if required to determine eligibility for public assistance, while the public assistance case is open. Current DCF rules also provide the conditions under which original case records that are copied in microfilm reproduction, optical disk, or electronic format may be destroyed. Finally, current DCF rules require that destruction of public assistance records must be done in a manner that make the records unreadable. This bill eliminates DCF's rules related to retaining public assistance case records.

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

1 **SECTION 1.** 13.92 (4) (bm) of the statutes is created to read:
2 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
3 227.265 affect the same unit of the Wisconsin administrative code without taking
4 cognizance of the effect thereon of the other rules and if the legislative reference
5 bureau finds that there is no mutual inconsistency in the changes made by each such
6 rule, the legislative reference bureau shall incorporate the changes made by each
7 rule into the text of the unit and document the incorporation in a note to the unit.

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1 For each such incorporation, the legislative reference bureau shall include in a
2 correction bill a provision formally validating the incorporation. Section 227.27 (2)
3 is not affected by printing decisions made by the legislative reference bureau under
4 this paragraph.

5 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

6 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin
7 administrative code a note explaining any change made under par. (b) or (bm).

8 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

9 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not
10 apply to any change made by the legislative reference bureau under par. (b) or (bm).

11 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

12 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a
13 record of each change made under par. (b) or (bm).

14 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

15 13.92 (4) (f) The legislative reference bureau shall notify the agency involved
16 of each change made under par. (b) or (bm).

17 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
18 is amended to read:

19 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
20 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
21 preceding register, including emergency rules filed under s. 227.24 (3).

22 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
23 is amended to read:

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1 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
2 affected by rules filed with legislative reference bureau under s. 227.20 (1) or
3 modified under s. 227.265, in accordance with sub. (3) (e) 1.

4 **SECTION 8.** 35.93 (3) of the statutes is amended to read:

5 35.93 (3) The legislative reference bureau shall compile and deliver to the
6 department for printing copy for a register which shall contain all the rules filed
7 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
8 preceding issue of the register was made and those executive orders which are to be
9 in effect for more than 90 days or an informative summary thereof. The complete
10 register shall be compiled and published before the first day of each month and a
11 notice section of the register shall be compiled and published before the 15th day of
12 each month. Each issue of the register shall contain a title page with the name
13 “Wisconsin administrative register”, the number and date of the register, and a table
14 of contents. Each page of the register shall also contain the date and number of the
15 register of which it is a part in addition to the other necessary code titles and page
16 numbers. The legislative reference bureau may include in the register such
17 instructions or information as in the bureau’s judgment will help the user to correctly
18 make insertions and deletions in the code and to keep the code current.

19 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
20 Act 20, is amended to read:

21 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
22 appropriate chapters of the Wisconsin administrative code each permanent rule filed
23 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265
24 and, for each chapter of the administrative code affected by a rule, do all of the
25 following:

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1 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
2 20, is amended to read:

3 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
4 in accordance with the filing deadline for publication established in the rules
5 procedures manual published under s. 227.15 (7) or, in an end-of-month register
6 agreed to by the submitting agency and the legislative reference bureau, or, in the
7 case of a rule modified under s. 227.265, in the end-of-month register for the month
8 in which the bill modifying the rule is enacted.

9 **SECTION 11.** 227.01 (13) (intro.) of the statutes is amended to read:

10 227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,
11 or general order of general application which has the effect of law and which is issued
12 by an agency to implement, interpret, or make specific legislation enforced or
13 administered by the agency or to govern the organization or procedure of the agency.
14 “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and
15 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
16 otherwise meet the definition under this subsection, which:

17 **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

18 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
19 as follows:

20 **SECTION 13.** 227.265 of the statutes is created to read:

21 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
22 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
23 Instead, the legislative reference bureau shall publish the repeal or modification in
24 the Wisconsin administrative code and register as required under s. 35.93, and the
25 repeal or modification shall take effect as provided in s. 227.22.

ASSEMBLY BILL 677**SECTION 14**

1 **SECTION 14.** 227.27 (2) of the statutes is amended to read:

2 227.27 (2) The code shall be prima facie evidence in all courts and proceedings
3 as provided by s. 889.01, but this does not preclude reference to or, in case of a
4 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~
5 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy
6 of a rule shall also and in the same degree be prima facie evidence in all courts and
7 proceedings.

8 **SECTION 15.** DCF 54.02 (3) (d) 1. of the administrative code is amended to read:

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

11 **SECTION 16.** Ch. DCF 110 of the administrative code is repealed.

12 **SECTION 17.** Ch. DCF 121 of the administrative code is repealed.

13 **SECTION 18.** DCF 201.02 (2m) of the administrative code is amended to read:

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

20 **SECTION 19.** DCF 202.01 (2) of the administrative code is amended to read:

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

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1 **SECTION 20.** DCF 202.02 (1) of the administrative code is repealed.

2 **SECTION 21.** DCF 202.02 (1s) of the administrative code is created to read:

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

8 **SECTION 22.** DCF 202.02 (2) of the administrative code is amended to read:

9 DCF 202.02 (2) “Certified child care home” or “home” means the residence in
10 which the certified child care operator provides care of children and which meets the
11 standards under s. DCF 202.08 for reimbursement of care by ~~county or tribal~~
12 certification agencies.

13 **SECTION 23.** DCF 202.02 (3h) of the administrative code is amended to read:

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

18 **SECTION 24.** DCF 202.02 (4) of the administrative code is repealed.

19 **SECTION 25.** DCF 202.04 (3) (a) of the administrative code is amended to read:

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

24 **SECTION 26.** DCF 202.04 (3) (d) of the administrative code is amended to read:

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

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

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

12 **SECTION 27.** DCF 202.04 (3) (e) (intro.) of the administrative code is amended
13 to read:

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

21 **SECTION 28.** DCF 202.04 (3) (f) of the administrative code is amended to read:

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

25 **SECTION 29.** DCF 202.04 (4) (a) of the administrative code is amended to read:

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1 DCF 202.04 (4) (a) A ~~county or tribal~~ certification agency may charge a fee for
2 family child care certification not to exceed 150 percent of the licensing fee for a
3 family child care center that provides care and supervision for 4 to 8 children, under
4 s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s.
5 48.685, Stats.

6 **SECTION 30.** DCF 202.04 (4) (b) of the administrative code is amended to read:

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

11 **SECTION 31.** DCF 202.04 (5) (intro.) of the administrative code is amended to
12 read:

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

16 **SECTION 32.** DCF 202.04 (6) (a) of the administrative code is amended to read:

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

20 **SECTION 33.** DCF 202.04 (6) (b) of the administrative code is amended to read:

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

24 **SECTION 34.** DCF 202.04 (6) (c) of the administrative code is amended to read:

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

4 **SECTION 35.** DCF 202.04 (7) (a) of the administrative code is amended to read:

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

8 **SECTION 36.** DCF 202.04 (7) (b) 1. of the administrative code is amended to read:

9 DCF 202.04 (7) (b) 1. 'General.' ~~County and tribal~~ Certification agencies shall
10 help assure operator compliance with s. DCF 202.08 (2) to (12) in accordance with
11 this section.

12 **SECTION 37.** DCF 202.04 (7) (b) 2. (intro.) of the administrative code is amended
13 to read:

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

16 **SECTION 38.** DCF 202.04 (7) (b) 3. (intro.) of the administrative code is amended
17 to read:

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

20 **SECTION 39.** DCF 202.04 (7) (b) 3. e. of the administrative code is amended to
21 read:

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

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1 children in care. The ~~county or tribal~~ certification agency shall document what
2 reason it has to believe that the person's physical or mental health may endanger
3 children in care.

4 **SECTION 40.** DCF 202.04 (8) of the administrative code is amended to read:

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

10 **SECTION 41.** DCF 202.04 (9) of the administrative code is amended to read:

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

17 **SECTION 42.** DCF 202.05 (1) of the administrative code is amended to read:

18 DCF 202.05 (1) The ~~county or tribal~~ certification agency shall follow the
19 requirements for criminal history and child abuse record search that are contained
20 in s. 48.685, Stats., and ch. DHS 12, and the crimes table incorporated into ch. DHS
21 12, and shall apply the standards that apply to licensed child care facilities, except
22 the ~~county or tribal~~ certification agency shall require any prospective or current
23 employee, contractor under the control of the certified child care operator, volunteer,
24 or non-client resident to submit the completed background information form to the
25 ~~county or tribal~~ certification agency prior to initial certification and recertification.

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

4 **SECTION 43.** DCF 202.05 (2) of the administrative code is amended to read:

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

13 **SECTION 44.** DCF 202.06 (1) (intro.) of the administrative code is amended to
14 read:

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

17 **SECTION 45.** DCF 202.06 (1) (c) of the administrative code is amended to read:

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

20 **SECTION 46.** DCF 202.06 (1) (e) of the administrative code is amended to read:

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

23 **SECTION 47.** DCF 202.06 (1) (j) of the administrative code is amended to read:

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

4 **SECTION 48.** DCF 202.06 (2) of the administrative code is amended to read:

5 DCF 202.06 (2) The ~~county or tribal~~ certification agency shall require a child
6 care operator to submit a new application for certification if the operator's previous
7 certification was denied, revoked, or not renewed for a reason in s. DCF 202.05 or
8 202.06 (1). The ~~county or tribal~~ certification agency may refuse to accept a new
9 application for 2 years after the date of the denial, revocation, or refusal to renew the
10 certification.

11 **SECTION 49.** DCF 202.06 (4) of the administrative code is amended to read:

12 DCF 202.06 (4) If a ~~county or tribal~~ certification agency denies, suspends,
13 revokes, or refuses to renew a certification, the ~~county or tribal~~ certification agency
14 shall notify the child care operator in writing and give reasons for the action. The
15 action is reviewable pursuant to of a county department of social services established
16 under s. 46.22, Stats., or a county department of human services established under
17 s. 46.23, Stats., may be appealed under ch. 68, Stats., which provides for
18 administrative review of the decisions of local agencies. Tribal agencies shall use an
19 appeal process equivalent to the process in ch. 68, Stats. In a county with a
20 population of 750,000 or more, a certification agency's action may be appealed under
21 ch. 227, Stats., which provides for administrative review of the decisions of state
22 agencies.

23 **SECTION 50.** DCF 202.065 (intro.) of the administrative code is amended to
24 read:

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

5 **SECTION 51.** DCF 202.065 (3) of the administrative code is amended to read:

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

9 **SECTION 52.** DCF 202.07 of the administrative code is amended to read:

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

13 **SECTION 53.** DCF 202.08 (1) (a) 3. of the administrative code is amended to read:

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

23 **SECTION 54.** DCF 202.08 (1) (b) 2. b. of the administrative code is amended to
24 read:

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

4 **SECTION 55.** DCF 202.08 (1) (b) 2. c. of the administrative code is amended to
5 read:

6 DCF 202.08 (1) (b) 2. c. Prior to issuing a Level I (regular) certification, the
7 ~~county or tribal~~ certification agency may require that an applicant has graduated
8 from high school, obtained a high school equivalency diploma under s. 115.29 (4),
9 Stats., or obtained a certificate of general education development under s. PI 5.04.

10 **SECTION 56.** DCF 202.08 (1) (c) (intro.) of the administrative code is amended
11 to read:

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

17 **SECTION 57.** DCF 202.08 (1) (d) of the administrative code is amended to read:

18 DCF 202.08 (1) (d) *Substitutes, employees, and volunteers.* A substitute,
19 employee, or volunteer for a Level I or II child care operator shall be approved by the
20 ~~county or tribal~~ certification agency before employment or volunteer work
21 commences. The ~~county or tribal~~ certification agency shall approve the substitute,
22 employee, or volunteer if the agency has verification that the substitute, employee,
23 or volunteer has met the standards under s. DCF 202.05, regarding the criminal
24 history and child abuse record search, and has completed the training on sudden

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1 infant death syndrome and shaken baby syndrome and impacted babies required
2 under par. (b) 1.

3 **SECTION 58.** DCF 202.08 (1) (e) 3. of the administrative code is amended to read:

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

6 **SECTION 59.** DCF 202.08 (2) (a) 2m. of the administrative code is repealed.

7 **SECTION 60.** DCF 202.08 (2) (g) of the administrative code is amended to read:

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

14 **SECTION 61.** DCF 202.08 (2) (o) of the administrative code is amended to read:

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

18 **SECTION 62.** DCF 202.08 (4) (c) of the administrative code is amended to read:

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

23 **SECTION 63.** DCF 202.09 (1m) (c) of the administrative code is amended to read:

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

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1 **SECTION 64.** DCF 202.09 (2) (e) (intro.) of the administrative code is amended
2 to read:

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

7 **SECTION 65.** DCF 202.09 (4) (a) 2. of the administrative code is amended to read:

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

13 **SECTION 66.** DCF 202.09 (12) (d) of the administrative code is amended to read:

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

18 **SECTION 67.** DCF 202.09 (14) (intro.) of the administrative code is amended to
19 read:

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

23 **SECTION 68.** DCF 203.03 (3) (d) of the administrative code is amended to read:

24 DCF 203.03 (3) (d) All child care teachers at the center shall be qualified under
25 s. DCF 251.05 (1) ~~(d)~~ (f) and shall have a minimum of a child development associate

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1 credential or a one-year degree in early childhood education or child development
2 or equivalent or is be in the process of completing a training plan to meet these
3 standards within one year of the date of initial accreditation;

4 **SECTION 69.** DCF 203.03 (3) (e) of the administrative code is amended to read:

5 DCF 203.03 (3) (e) The program director at the center shall be qualified under
6 s. DCF 251.05 (1) ~~(e)~~ (e) and shall have a minimum of a bachelor of arts degree in early
7 childhood education or child development and at least 3 years of full-time teaching
8 experience with young children or equivalent or is be in the process of completing a
9 training plan to meet this standard within one year after the date of initial
10 accreditation;

11 **SECTION 70.** DCF 250.04 (2) (g) of the administrative code is amended to read:

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

17 **SECTION 71.** DCF 250.04 (6) (a) 1. of the administrative code is amended to read:

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

21 **SECTION 72.** DCF 250.07 (6) (L) 3. of the administrative code is amended to
22 read:

23 DCF 250.07 (6) (L) 3. The health examination report shall be made on an
24 electronic printout from a licensed physician, physician assistant, or HealthCheck

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1 provider or on a form provided by the department and shall be that is signed and
2 dated by a licensed physician, physician assistant, or ~~a~~ HealthCheck provider.

3 **SECTION 73.** DCF 251.03 (2) of the administrative code is amended to read:

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

7 **SECTION 74.** DCF 251.03 (4) of the administrative code is amended to read:

8 DCF 251.03 (4) “Center director” means the person who is responsible to the
9 licensee for the supervision of the center’s program for children and for the
10 supervision of the center’s staff and who meets the qualifications of under s. DCF
11 251.05 (1) ~~(e)~~ (e).

12 **SECTION 75.** DCF 251.03 (5) of the administrative code is amended to read:

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

16 **SECTION 76.** DCF 251.04 (5) (a) 4. of the administrative code is amended to read:

17 DCF 251.04 (5) (a) 4. The physical examination report required under s. DCF
18 251.05 (1) (j) (L) 1.

19 **SECTION 77.** DCF 251.07 (6) (k) 3. of the administrative code is amended to
20 read:

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

25 **SECTION 78.** DCF 251.09 (1) (e) of the administrative code is amended to read:

