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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Children and Families (AC-CF)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)



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STACT

**PROPOSED ADMINISTRATIVE RULES – CR03-052; HFS 45 and 46
ANALYSIS FOR LEGISLATIVE STANDING COMMITTEES
PURSUANT TO S. 227.19 (3), STATS.**

Basis and Purpose of Proposed Rules

The Department's administrative rules governing the licensing of day care centers are chapters HFS 45 and 46. Chapter HFS 45 applies to day care centers that care for between four and eight children under age seven. The Department currently refers to these centers as "family day care centers." Chapter HFS 46 applies to day care centers that care for nine or more children under age seven. The Department currently refers to these centers as "group day care centers."

With minor exceptions, the Department has not revised ch. HFS 45 since 1989. Since then, several events have suggested or required its modification.

1. In 1997, the Department created ch. HFS 46. Chapters HFS 45 and 46 address similar topics and should, but currently do not always, contain comparable requirements, including those related to definitions, licensing procedures and enforcement actions. Therefore, one purpose of this rulemaking order is to unify the treatment of a variety of subjects across the chapters.

2. Since 1989, a variety of child safety practices standards have changed and become generally accepted. For example, cardiopulmonary resuscitation training for childcare providers has become standardized. The Department's proposed rules for both chapters HFS 45 and 46 reflect these practices.

3. Pertinent statutory changes over the past five years relating to caregiver background checks under s. 48.685, Stats., and prohibitions on smoking under s. 101.123 (2) (bm), Stats., are reflected in the rules. In addition, 2001 Wisconsin Act 16 amended s. 48.67, Stats., to require that all child care centers licensed to care for children under age one must receive training in the most recent medically accepted practice to reduce the risk of Sudden Infant Death Syndrome. The proposed rules describe the needed training.

4. The proposed rules reflect changes in the ways the Department issues a license and create provisions that would allow the Department to bar consideration of an application if the applicant has had a previous license revoked or application denied for a substantive reason.

5. The Department proposes to change the term "day care center" to the more descriptive term "child care center."

Given the preceding events, the Department has proposed a variety of changes to chs. HFS 45, Family Child Care Centers, and 46, Group Child Care Centers. In developing these rules, the Department consulted the Department of Workforce Development's Office of Child Care, the agency responsible for developing ch. DWD 55, rules for certified child care homes, and the Department of Commerce's Division of Safety and Buildings.

The Department's authority to repeal and recreate these rules is found in s. 48.67, Stats. The rules interpret s. 48.67, Stats. Through these final proposed changes, the Department believes that it is contributing to the statutory goal of protecting and promoting the health, safety and welfare of the children in the care of all licensees.

Changes to Rulemaking Order Analysis or Fiscal Estimate

- *Changes to Rulemaking Order Analysis*

The Department significantly revised its analysis section from that in the initial proposed order. The bulk of the changes were due to 2003 Wisconsin Act 118, which mandated changes to the content of several administrative rule-related documents. Specifically, the Department:

- Changed the format of the analysis to conform with newly-required areas required to be addressed;
- Expanded the analysis section to address the information newly-required under s. 227, Stats.;
- Added a section regarding the effect of the rules on small businesses;
- Added a section regarding the fiscal effect on the private sector;
- Added a section that describes how the proposed rules relate to pertinent federal regulations; and
- Added a section that describes the relationship of the proposed rules to comparable rules in adjacent states.

- *Changes to Fiscal Estimate*

With the exception of incorporating a discussion of private sector fiscal effects, the Department has made no changes to the proposed rule that affects its original fiscal estimate. The Department anticipates that there will be some minor costs incurred by child care centers when these rules are implemented. For example, all persons working with children will be required to have a current certificate of completion for Infant/Child Cardiopulmonary Resuscitation (CPR). Costs are anticipated to range from \$10 to \$30 per person each time the training is needed. Certificates are valid for periods from one to five years depending on the agency providing the training. The Department did not specify a specific agency that must provide the training to allow centers to choose the type of training program desired. Under the proposed revisions, family child care licensees who allow cats and dogs to have unrestrained access to the children in care would be required to provide specific liability insurance pertaining to pets. In other words, the liability insurance certificate from the insurance agent will need to specify that the center is covered for cats or dogs. Those family family child care licensees who do not allow pets to have unrestrained access to the children would not be required to have this coverage. The Department is not able to determine how many centers may be affected by this regulation but estimates the cost of such liability insurance could range from \$50 to \$250 per year depending on the type of insurance coverage obtained and the limits of the policy. Group child care licensees are already required to have liability insurance and additional costs for coverage of unrestrained pets should be negligible. The Department does not anticipate any other costs to licensees under these proposed revisions.

Response to Clearinghouse Recommendations

The Department accepted all of the Clearinghouse comments on the proposed rule. In addition, the Department offers the following comments.

Comment 4.a.: Since the department is repealing and recreating ch. HFS 45, cross-references to provisions in that chapter may need to be changed. For example, s. HFS 52.45 (3) (b) refers to s. HFS 45.07; the correct cite under the new rule is to s. HFS 45.09. The department should correct this. As another example, s. DWD 58.04 (3) (f) refers to s. HFS 45.04 (1). The department should notify the Department of Workforce Development that this is no longer accurate. Similarly, other rules of the department refer to "day care centers" under ch. HFS 45 or 46. The department may wish to change those rules to refer to "child care centers."

Response: The Department normally relies on the Revisor of Statutes to identify discrepancies in existing administrative code resulting from changes the Department or the Legislature makes to statutes or administrative code. These changes do not need to be formally promulgated, but are handled through communications with the Revisor's Office. The Department will also do so pursuant to changes made through this order.

Effect on Small Business

The revision of HFS 45 will affect family child care centers licensed to care for up to 8 children. The revisions to HFS 46 will affect group child care centers licensed to care for 9 or more children. As of June 2003 there were 3,111 licensed family child care centers and 2,399 licensed group child care centers. All programs affected by the proposed changes to the administrative code will receive a mailing from the Department indicating the dates, times and locations of scheduled public hearings as well as instructions on how to obtain a copy of the proposed revisions and the procedure to make oral or written comments regarding the revisions.

The proposed revisions to the rules expand the list of items that must be reported to the Department within a specified time frame. The reports required in the rule revision are a means by which the Department obtains information about situations occurring at a child care center or that affect children enrolled at a center which have the potential to affect the health, safety or welfare of the children enrolled in the program. These new reporting requirements are being proposed for the purpose of protecting the children in care. Therefore, the Department has not proposed specific exemptions from these reporting requirements.

The Department is also proposing rule revisions that will bring HFS 45 into alignment with HFS 46 and will reflect current best practices in early childhood education and care. The Department has included provisions in the rule revisions that allow individual programs to request an exception to any given rule provided a alternative plan for protecting the health, safety and welfare of children in care is also included with the request. These exception requests are evaluated and approved on an individual basis.

Modifications to Initial Proposed Rule

In response to the comments received through the public hearing process, the proposed rules have been modified to make them clearer and to respond to the commenters' concerns. For example, the Department received many comments that requiring substitute caregivers in family child care centers to meet the entry level qualifications within six months after starting to work was unreasonable and would greatly limit the pool of available substitutes. In response, the rule was modified to require a substitute to meet the entry-level training qualifications after having worked in a program for 240 hours. The Department made other modifications in cases in which commenters indicated that the Department's meaning or intent had not been clear.

The pet provisions of the proposed rules received many comments. As a result of these comments, the Department is proposing several modifications to the rules, including prohibiting certain animals (such as reptiles, amphibians, certain birds in the parrot family and exotic or wild animals) from being accessible to children, rather than prohibiting their presence in areas of a center used by children. The Department also added required liability insurance that covers the presence of pets only when cats and dogs have unrestricted access to children in a child care center rather than to require liability insurance whenever pets are present at the center.

Another area of the proposed rule that generated many comments was the inclusion of the word "holding" in prohibited behaviors for guiding children's behavior. As a result of these comments,

the word "holding" was removed and replaced with the term "physical restraint," and a definition was added describing what the Department considers physical restraint.

The family child care rules proposed allowing children to be supervised by a provider who is within the sight or sound of the children. The Department had proposed adding a requirement for sight and sound supervision while children under age 5 were outside or eating. The Department received many comments from family child care providers that these restrictions would make it difficult for them to manage to adequately supervise all children. In response, the Department modified the rules to require that a provider be outside with the children providing sight and sound supervision only if the children were not playing inside an enclosed area. The Department also removed the rule that required sight and sound supervision during meals and replaced it with a general rule that requires providers to provide close supervision to children at all times.

Finally, several commenters objected to the Department's prohibition on centers from using swimming pools on the premises of a center. In this instance, the Department has decided to retain this provision in the rule due to safety concerns for the children in care. In recent years, there has been a drowning death and several near drownings that have occurred while children were in a child care center. The rules allow centers to take children to public swimming pools or beaches and specify safety protections that must be in place when there is a pool on the premises of a center. A center may request an exception to the rules if the center can demonstrate that it can adequately protect the children in care while using an on-premises pool. Such an exception process would allow agencies such as YMCA's and others to continue to provide a swimming activity for children as a part of the daily activities, while protecting children in care.

Comments on Proposed Rule

- Public Hearing Summary

The Department held two public hearings on its proposed revision of chs. HFS 45 and 46. The first hearing was in Wausau on July 28, 2003 and the second was in Waukesha on August 14, 2003. Jill Chase and Anne Carmody, of the Department's Regulation and Licensing Bureau in the Division of Children and Family Services, staffed the hearings. A total of 24 people attended the July 28th hearing. Sixteen persons provided oral testimony and 18 observed the hearing proceedings. Eighty people attended the August 14th hearing. Of those 80 people, 66 only observed the proceedings while 14 persons provided comments (both in writing and orally.) The Department's comment period remained open until Monday, August 28th. The Department also received 85 written comments either via email or postal mail.

- Public Comments Summary

Comments ranged from general statements of support (9 commenters) to general statements of opposition (10 commenters). The majority of the comments were requests for clarifications or modifications to the rules. One area that garnered many comments included the proposed rule that required substitute providers in family child care centers needed to have obtained the required entry level training within six months of providing care (27 commenters). Proposed rules that would have required sight and sound supervision of children in a family child care center when children were eating or playing outside also elicited a number of comments. Twenty two commenters opposed the requirement for sight and sound supervision during meals and six commenters opposed the requirement for sight and sound supervision while children under age five were playing outside. Twelve commenters opposed the requirement that the children in care could not use swimming pools on the premises. Thirteen commenters opposed the addition of the word "holding" to prohibited behaviors when guiding children's behavior. Most of these

commenters requested that the term "holding" be modified or defined to make the rule clearer regarding exactly what types of behavior would be prohibited. Fifteen commenters objected to the section on rules that related to pets in child care centers. Approximately 44 commenters had concerns about one or more specific rules in the ss. HFS 45.07 (7) and 46.07 (7), relating to pets.

In responding to the commenters' remarks, the Department consulted with its advisory committee, reviewed other states licensing rules and the American Academy of Pediatrics and the American Public Health Association publication, "Caring for our Children, National Health and Safety Performance Standards for Children in Out of Home Care Settings," second edition.

- List of Hearing Attendees and Commenters

| Name and Address | Position on Revision | Date |
|------------------------------------------------------------------------------------------------------|-------------------------------------------|-------------------------------------|
| 1. Mary L. Kinder Campus For Kids 4905 E. Buckeye Madison, WI 53716 | Requests parts of the rules be clarified. | Oral testimony. |
| 2. Bonnie Friberg Campus for Kids 4905 E. Buckeye Rd. Madison, WI 53727 | Requests parts of the rules be clarified. | Oral testimony. |
| 3. Coleen A. Haen Day by Day Discoveries 5140 Algoma Road New Franken, WI 54229 | Requests parts of the rules be clarified | Oral testimony and written comments |
| 4. Kristi Hefty P.O. Box 287 Wittenberg, WI 54499 | Requests parts of the rules be clarified. | Oral testimony. |
| 5. Kara Prange 1866 Wallinford Dr. Sun Prairie, WI 53590 | Requests parts of the rules be clarified. | Oral testimony. |
| 6. Tammy Dannhoff Kids are Us Child Development Ctr. LLC 1725 Sanders St. Oshkosh, WI 54902 | Requests parts of the rules be clarified. | Oral testimony. |
| 7. Krista J. Sobieski 406 Preston Lane Redgranite, WI 54970 | Requests parts of the rules be clarified. | Oral testimony. |
| 8. Kay Moericke 12238 Hwy WW Wausau, WI 54403 | Requests parts of the rules be clarified. | Oral testimony. |
| 9. Angela A. Pfaff N2048 Cedar Ct. Stoddard, WI 54658 | Requests parts of the rules be clarified. | Oral testimony. |
| 10. Malanie M. Schmitz 709 Northpoint Dr. Stevens Point, WI 54481 | Requests parts of the rules be clarified. | Oral testimony. |

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| 11. Christine Giles Heart Warming Day Care 2702 Country Creek Ln. Schofield, WI 54476 | Opposes parts of the rules. | Oral testimony. |
| 12. Marsha Schewe 1788 Shadow Lawn Rd. Mosinee, WI 54455 | Opposes parts of the rules and requests parts of the rules be clarified. | Oral testimony. |
| 13. Tammy Westfall 816 Elm St. Wausau, WI 54401 | Opposes parts of the rules. | Oral testimony. |
| 14. Jill K. Habeck 3515 Ross Ave. Schofield, WI 54476 | Requests parts of the rules be clarified. | Oral testimony. |
| 15. Ruth Rigney N10688 Hwy CC Tomahawk, WI 54487 | Opposes parts of the rules. | Oral testimony. |
| 16. Laure Blanchard Wausau Child Care Inc. 505 N. 28 th Ave. Wausau, WI 54403 | Requests parts of the rules be clarified. | Oral testimony. |
| 17. Sherry Chelminiak W7336 Island Rd. Delevan, WI 53115 | No position stated. | Observed. |
| 18. Lori Lutz Milwaukee Health Dept Health and Safety in Child Program Manager 1639 S. 23 rd llutz@milwaukee.gov | Requests parts of the rules be clarified. | Oral testimony. |
| 19. Barbara Evenson 1093 Carol Ave. Ripon, WI 54971 | Supports the rules as written. | Observed. |
| 20. Julie Glazewski W231 S5927 Molla Dr. Waukesha, WI 53189 | Supports rules as written. | Observed. |
| 21. Sandra Scheulke 16655 Willow Ridge Lane Brookfield, WI 53005 | Opposes rules as written. | Observed. |
| 22. Michelle Kingele N92 W27668 Hickory Rd. Hartland, WI 53029 | Opposes rules as written. | Observed. |
| 23. Robert Schuelke 1711 Rempe Drive | Opposes parts of rules and requests parts of the rules be | Observed at hearing, and written comments. |

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| Waukesha, WI 53186 | clarified. | |
| 24. Paul Klahn 432 S. 94 th St. Milwaukee, WI 53214 | Opposes rules a written. | Observed. |
| 25. Clara Walker 4054 N. 19 th Pl. Milwaukee, WI 53209 | Opposes rules as written. | Observed. |
| 26. Anne Sellitto W168 S7230 Eton Ct. Muskego, WI 53150 | Supports parts of the rules and opposes parts of the rules. | Written comments. |
| 27. Karen Narlow 2315 Kensington Dr. Waukesha, WI 53188 | Supports parts of the rules and opposes parts of the rules. | Oral testimony and written comments. |
| 28. Jody Kretion Little Rascals Daycare 2150 Plum Rd Mosinee, WI 54455 | No position stated. | Observed. |
| 29. Krisann Mauritz 11913 Rainbow Rd. 8 Marshfield, WI 54449 | No position stated. | Observed. |
| 30. Angel Pfaff 3011 S. 22 nd St. LaCrosse, WI 54601 | No position stated. | Observed. |
| 31. Helen Scovel 8640 Woodland Dr. Minocqua, WI | No position stated. | Observed. |
| 32. James Schoenick 5031 Griffith Ave. Wisconsin Rapids, WI 54494 | No position stated. | Observed. |
| 33. Clayden Schoenick 5031 Griffith Ave. Wisconsin Rapids, WI 54494 | No position stated. | Observed. |
| 34. Victoria Rosenow W15168 Rosenow Ln. Wittenberg, WI 54499 | No position stated. | Observed. |
| 35. Sheryl Bauer Hometown Children's Center 709 North Point Dr. Stevens Point, WI 54481 | No position stated. | Observed. |
| 36. Canaland Christian Day Care and Preschool 801 Hwy 10 W Stevens Point, WI 54481 | No position stated. | Observed. |

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| 37. Sara Strnad Day by Day Discoveries 5140 Algoma Rd. New Franken, WI 54229 | No position stated. | Observed. |
| 38. Barb Ziemer 707 3 rd St. Wausau, WI 54403 | No position stated. | Observed. |
| 39. Erin Rohan 406 Preston Lane Redgranite, WI 54970 | No position stated. | Observed. |
| 40. Therese McDermott 4903 E. Buckeye Rd Madison, WI 53716 | No position stated. | Observed. |
| 41. Linda Brown 4905 E. Buckeye Rd. Madison, WI 53716 | No position stated. | Observed. |
| 42. Sheryl Strommen Campus for Kids 4905 E. Buckeye Rd. Madison, WI 53716 | No position stated | observed |
| 43. Carla Buntrock Campus for Kids 4905 E. Buckeye Rd. Madison, WI 53716 | No position stated | observed |
| 44. Thao H. Moua 406 Fulton St. | No position stated. | Observed. |
| 45. Angela VanDeVoort N1783 State Hwy 17 Merrill, WI 54452 | No position stated. | Observed. |
| 46. Michelle Bethke Children's World Learning Centers 1109 N. Mayfair Rd. Wauwatosa, WI 53226 | Opposed parts of the rules. | Oral testimony and written comments. |
| 47. SueAnne Beecher 400 E. Waterford Ave (mysmallones@hotmail.com) | Opposed parts of the rules. | Oral testimony and written comments. |
| 48. Lela Manning 3167 N. 45 th St. | No position on rules stated requested mailed copy of revisions prior to hearing. | Oral testimony. |
| 49. Annette Moy Kenosha YMCA 1785 W. Meyer Ln #16105 Oak Creek, WI 53154 | Requests parts of the rules be clarified. | Oral testimony. |

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| 50. Youa H. Vang Hmong's First Academy 1115 N. 35 th St. Milwaukee, WI 5320 | Supports rules; requests translation into Hmong. | Oral testimony. |
| 51. June Ertenberg 3265 Hwy K Hartford | Oppose the rules as written. | Observed. |
| 52. Sally A. Roose Rooster Loft Montessori W243 S7125 Cameron Dr. Waukesha, WI 53189 | Opposes rules as written. | Oral testimony and written comments. |
| 53. Richard Wills 2544 N 27 th | No position stated. | Observed. |
| 54. Patrice Klahn 4325 S. 94 th St. Milwaukee, WI 53214 | Oppose the rules as written. | Oral testimony. |
| 55. Michelle Oglesby 4261 N. 68 th Milwaukee, WI 53216 | Opposes parts of the rules. | Oral testimony. |
| 56. Ted O'Leske 7225 W. River Rd. Caledonia, WI 53154 | Requests part of the rules be clarified. | Oral testimony. |
| 57. Janet M. Haasch 15330 W. Harcove Dr. New Berlin, WI 53151 | Opposes parts of the rules. | Oral testimony. |
| 58. Steven Seiler 1015 Mt. Blane Ct. Green Bay, WI 54311 | Opposes parts of the rules requests parts of the rules be clarified. | Written comments. |
| 59. Jean A. Ferrier 2120 Spring Creek Cir. Green Bay, WI 54311 | Opposes parts of the rules Requests parts of the rules be clarified. | Written comments. |
| 60. Heather Kraynik 3661 Conard Rd. New Franken, WI 54229 | Opposes parts of the rules Requests parts of the rules be clarified. | Written comments. |
| 61. Cindy Virlee 4895 Champion Rd. New Franken, WI 54229 | Opposes parts of the rules Requests parts of the rules be clarified. | Written comments. |
| 62. Loretta A. Kohlbeck 3146 Carnoustie Way New Franken, WI 54229 | Opposes parts of the rules Requests parts of the rules be clarified. | Written comments. |
| 63. Cathy Breenen 3070 Claymore Ln. | Opposes parts of the rules Requests parts of the rules be | Written comments. |

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| New Franken, WI 54339 | clarified. | |
| 64. Jaime K. Shultz 1922 Green Bay Street LaCrosse, WI 54601 | Opposes parts of the rules. | Written comments. |
| 65. Kathy Stensvad Rainbow's End Daycare 601 3 rd Ave. W Ashland, WI 54806 | Opposes part of the rule. | Written comments. |
| 66. Lindsey Compton Rainbow's End Daycare 601 3 rd Ave. W Ashland, WI 54806 | Opposes part of the rule. | Written comments. |
| 67. Tristan Rule Rainbow's End Daycare 601 3 rd Ave. W Ashland, WI 54806 | Opposes part of the rule. | Written comments. |
| 68. Amber Gustafson Rainbow's End Daycare 601 3 rd Ave. W Ashland, WI 54806 | Opposes part of the rule. | Written comments. |
| 69. Stephannie Schmidt Rainbow's End Daycare 601 3 rd Ave. W Ashland, WI 54806 | Opposes part of the rule. | Written comments. |
| 70. Jenny Shiits Rainbow's End Daycare 601 3 rd Ave. W Ashland, WI 54806 | Opposes part of the rule. | Written comments. |
| 71. Nettie Lyn Tietel Rainbow's End Daycare 601 3 rd Ave. W Ashland, WI 54806 | Opposes part of the rule. | Written comments. |
| 72. Jim and Kris Huntzinger S 84 W32321 Jericho Rd. Mukwonago, WI 53149 jrhuntzinger@prodigy.net | Opposes part of the rules. | Written comments. |
| 73. Joyce Ragan 1521 Michigan Ave. Wisconsin Dells, WI 53965 | Opposes part of the rules. | Written comments. |
| 74. Roni Westbrook Christian Chapel Day Care 1415 Well Street Onalaska, WI 54650 ccdaycare@centurytel.net | Opposes part of the rules. | Written comments. |

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| 75. Donna M. Seidel Donna's Day Care 515 Grahl St. Medford, WI 54451 | Opposes part of the rules. | Written comments. |
| 76. Beth Nicholson, Director Kiddie Kampus Preschool and Day Care 828 W. Main St. Watertown, WI 53094 | Opposes part of the rule. | Written comments. |
| 77. Becky Engebretson Becky's Cuddly Care FCC 1189 Division St. Green Bay, WI 54303 | Opposes parts of the rule; requests parts of the rules be clarified. | Written comments. |
| 78. Heather A Mennen 600 Greenbell St. Green Bay, WI 54301 | Opposes parts of the rule; requests parts of the rules be clarified. | Written comments. |
| 79. Donna Aznoe Kiddie Haven Family Day Care 541 Fred Street Green Bay, WI 54302 | Opposes parts of the rule; requests parts of the rules be clarified. | Written comments. |
| 80. Caroline Casper St. Phillip Preschool 6975 Grotto Avenue Rudolph, WI 54475 chefman@wctc.net | Opposes parts of the rule. | Written comments. |
| 81. Frank and Nancy Provenzano 611 Greenway Rd. Monona, WI 53716-2666 | Opposes parts of the rules. | Written comments. |
| 82. Tina Grahek Bay Area Day Care 2135 Crestwood Sprs. Dr. Green Bay, WI 54304 | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |
| 83. Leann Majeski 3827 Conard Rd. New Franken, WI 54229 | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |
| 84. Sharon Nash 6813 Maywood Ave. Middleton, WI 53562-2722 | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |
| 85. Judy Gordon, Director Small World Child Care Sheboygan YMCA 812 Boughton Dr. P.O. Box 609 Sheboygan, WI 53082-0609 | Requests parts of the rule be clarified. | Written comments. |
| 86. Rebecca Conard 4241 Birch Tree Cr. New Franken, WI 54229 | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |

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| 87. Judy Gray Christian Chapel Day Care W5526 CTH 5 Onalaska, WI 54650 | Opposes part of the rule. | Written comments. |
| 88. Michelle Duval 2560 Carmel Ln Green Bay, WI 54311 | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |
| 89. Phillip Hansen, Executive Director Badger Chapter American Red Cross 4860 Sheboygan Ave. P.O. Box 5905 Madison, WI 53705-0905 | Supports parts of the rules. | Written comments. |
| 90. Anne Robertson, Operations Manager Ebenezer Child Care Centers 1496 S. 29 th St. Milwaukee, WI 53215 | Opposes parts of the rules. | Written comments. |
| 91. Weslynn Korenic, Owner/Administrator Gingerbread House Preschool, Inc. 5224 Farwell St. McFarland, WI 53558 | Opposes parts of the rules. | Written comments. |
| 92. Nancy L. Valentine 3284 Maple Grove Suamico, WI 54173-8133 | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |
| 93. Shannon & Jodi VandenHeuvel 2480 Valley Haven Lane Green Bay, WI 54311 | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |
| 94. Kym M. Reed Kym's Little Treasures Child Care 3017 Ancestor Way Green Bay, WI 54313 | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |
| 95. Vivian Kranz Tot Stop Family Daycare 3740 N. Hwy 80 Elroy, WI 53929 | Supports parts of the rules; opposes parts of the rules. | Written comments. |
| 96. Kate MacCrimmon Pear Tree Child Care 920 Emerald St. Madison, WI 53715 katetodd@merr.com | Opposes parts of the rules. | Written comments. |
| 97. Marie Sinur-Schmidt Tosa-Tot-To-Teen Day Care Center 2340 N. 85 th St. Wauwatosa, WI 53226 reeruss@earthlink.net | Opposes parts of the rules. | Written comments. |

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| 98. Carol Vincent Hug a Bunch FCC 1779 Ninth St. Green Bay, WI 54303 | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |
| 99. Bill Vander Zouwen 506 Vernon Ave. Madison, WI 53714 | Opposes parts of the rules. | Written comments. |
| 100. Phil Oresick 1927 Cliff Alex Court North Waukesha, WI 53189 | Opposes parts of the rules. | Written comments. |
| 101. Linda Ripp Waunakee Manor Lindave@TDS.NET | Opposes parts of the rules. | Written comments. |
| 102. Stacy Czaplewski 28921 Sunrise Lane Waterford, WI 53185 | Opposes parts of the rules. | Written comments. |
| 103. Sara J. Turner Sjturner@chorus.net | No position provided. | Written comments. |
| 104. Becky Van Houten Preschool of the Arts 11 Science Ct. Madison, WI Psabecky@mailbag.com | Opposes parts of the rule; requests parts of the rule be clarified. | Written comments. |
| 105. Sarah Adams-Kollitz Preschool of the Arts 11 Science Ct. Madison, WI 53711 Psasarah@mailbag.com | Opposes parts of the rules. | Written comments. |
| 106. Barbara J. May, Administrative Director Dillons Prairie House Preschool and Child Care Oconomowoc, WI Tmay3@wi.rr.com | Opposes parts of the rules. | Written comments. |
| 107. Tamera Wagner Tender Care Center 458 Fur Lane Wisconsin Dells, WI 53965 Swagner@merr.com | Opposes parts of the rules. | Written comments. |
| 108. Michelle Krantz Tender Beginnings Family Day Care Madison, WI Michelle@krantz.tv | Opposes parts of the rules. | Written comments. |
| 109. David Dees, Director Community Nutrition Programs | Requests parts of the rules be clarified. | Written comments. |

| Department of Public Instructor | | |
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| 110. Eleanor Dockry Director/Quality Programming Encompass Child Care, Inc. 1300 Bellevue St. Green Bay, WI 54302 Eleanor@Encompasschildcare.org | Opposes part of the rules; requests parts of the rule be clarified. | Written comments. |
| 111. Dennis and Kelly Scherr Scherr@wwt.net | Opposes parts of the rules. | Written comments. |
| 112. Lynn Moller 1226 Velvet Leaf Dr. Madison, WI 53719 Lakemo@charter.net | Opposes parts of the rules. | Written comments. |
| 113. Anne Sellitto W 168 S7230 Eton Ct. Muskego, WI 53150 Sellitto@sbcglobal.net | Supports parts of the rules; opposes parts of the rules. | Written comments. |
| 114. Joan Laurion Laurion@co.dane.wi.us | Opposes parts of the rules. | Written comments. |
| 115. Colleen Lemke Rclenke@ameritech.net | Supports parts of the rules; opposes parts of the rules. | Written comments. |
| 116. Sarah Fleming Lenfleming@msn.com | Opposes parts of the rules. | Written comments. |
| 117. Phyllis K.H. Smith Phyllis' Fun Care 6051 Hagen Hill Circle Madison, WI 53718 Eeyorepkhs@aol.com | Opposes parts of the rules. | Written comments. |
| 118. Barb Meulemans, Director Child Care Learning Center 1545 E. Broadway Dr. Appleton, WI 54913 Bmeulemans@msn.com | Opposes parts of the rules. | Written comments. |
| 119. Liza Dable Liza.dable@bostikfindley-us.com | Opposes parts of the rules. | Written comments. |
| 120. Regina Kane NortsMom@aol.com | Requests part of the rules be clarified. | Written comments. |
| 121. David Cherney DCHERNEY@isol.net | Opposes parts of the rules. | Written comments. |
| 122. Peggy Haack Harmony Child Care Services 305 Clemons Ave. Madison, WI 53704 | Supports parts of the rules; opposes parts of the rules. | Written comments. |

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| phaack@wecanaeyc.org | | |
| 123. Audrey Kreklow A Home Away from Home Daycare 315 W. Burns St. Portage, WI 4kreklows@centurytel.net | Opposes parts of the rules; requests parts of the rules be clarified. | Written comments. |
| 124. Wendy Arnn warnn@chorus.net | Opposes parts of the rules. | Written comments. |
| 125. Liz Pekol Pekol Family Daycare pekol@charter.net | Opposes parts of the rules. | Written comments. |
| 126. Jennifer R. Vaughan Sticky Finders Family Daycare 6318 Woodington Way Madison, WI 53711 chasv@chorus.net | Opposes parts of the rules. | Written comments. |
| 127. Diana diana@merr.com | Supports the rules. | Written comments. |
| 128. Kathleen Martens 2189 Conover Circle Oregon, WI 53575 W.KathleenMartens@wkmarten@charter.net | Supports parts of the rules; opposes parts of the rules; requests parts of the rules be clarified. | Written comments. |
| 129. Katie Grady Loving Hands FCC LovingHandsFCC@msn.com | Supports parts of the rules; opposes parts of the rules. | Written comments. |
| 130. Nancy Bradley 101 S. Mills St. Madison, WI 53715 brat@itis.com | Supports parts of the rules; opposes parts of the rules. | Written comments. |
| 131. Susan Watkins P.O. Box 12612 Milwaukee, WI 53212 | No position stated. | Observed. |
| 132. Louisa L. Holmes Weezie's Loving Hands Daycare P.O. Box 18106 Milwaukee, WI 53218 | No position stated. | Observed. |
| 133. Tracy Davidson P.O. Box 090346 4660 N. 41 st St. Milwaukee, WI 53209 | No position stated. | Observed. |
| 134. Nancy J. Carr 4609 N. Sherman Blvd. Milwaukee, WI 53209 | No position stated. | Observed. |

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| 135. Delores Cobb 3800 N. 10 th Milwaukee, WI 53206 | No position stated. | Observed. |
| 136. Patricia Woods 2414 W. Hopkins St. Milwaukee, WI 53260 | No position stated. | Observed. |
| 137. Gale Fisher 4073 N. 23 rd Milwaukee, WI fishergale53@hotmail.com | No position stated. | Observed. |
| 138. Mary Ann Dawson 880 N. 24 th St. Milwaukee, WI | No position stated. | Observed. |
| 139. Towonda Ford 1339 W. Hadley St. Milwaukee, WI 53206 showersoflove@sbcglobal.net | No position stated. | Observed. |
| 140. Lydia Geter 4012 N 18 th St Milwaukee, WI | No position stated. | Observed. |
| 141. Thelma Lawson 2827 N 36 th Milwaukee, WI tlhccare@aol.com | No position stated. | Observed. |
| 142. Bessie O. Carter 4647 N. 19 th Pl. Milwaukee, WI 53209 | No position stated. | Observed. |
| 143. Rosie Stevenson 2234 N 26 th St. Milwaukee, WI | No position stated. | Observed. |
| 144. Virginia Emmons 2825 N. 29 th Milwaukee, WI 53210 | No position stated. | Observed. |
| 145. Earlean Collier Collier Consulting Firm, Inc. P.O. Box 01401 Milwaukee, WI 53209 Collierconsultingfirm@yahoo.com | No position stated. | Observed. |
| 146. Shirley R. Honard Shirley's Child Development Ctr. 4919 W. Good Hope Rd. Milwaukee, WI | No position stated. | Observed. |
| 147. Doris Russ | No position stated. | Observed. |

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| Russ' Child Care 4256 N. 36 th St. Milwaukee, WI Eldor@excpc.com | | |
| 148. Jennifer Rorex 1714 N 38 th St. Milwaukee, WI 53208 | No position stated. | Observed. |
| 149. Charlotte Randolph 1712 N. 36 th St. Milwaukee, WI 53208 | No position stated. | Observed. |
| 150. Demetria Perkins DYPerkins Academy of Excellence Demetria@cedar.net | No position stated. | Observed. |
| 151. Delona R. Arms 1926 West Hampton Ave. Milwaukee, WI 53209 | No position stated. | Observed. |
| 152. Linda Cleaves 3425 N. 44 th St. Milwaukee, WI 53216 | No position stated. | Observed. |
| 153. Ruby Walls 6200 W. Silverbrook Lane Milwaukee, WI 53223 | No position stated. | Observed. |
| 154. Isabelle Reyes 2114 S. 7 th St. Milwaukee, WI | No position stated. | Observed. |
| 155. Peggy Hardy 3201 N. 40 th St. Milwaukee, WI | No position stated. | Observed. |
| 156. Gunm Middleton YMCA of Metro Milwaukee 161 W. Wisconsin Ave Suite 4000 Milwaukee, WI 53203 Gmiddleton@ymcamhe.org | No position stated. | Observed. |
| 157. Arlene Hardy 3201 N. 40 th St. Milwaukee, WI 53216 | No position stated. | Observed. |
| 158. Gloria Lemmer Bright Days 2240 Golf Rd. Peewaukee, WI 53072 | No position stated. | Observed. |
| 159. Mary Smith 1245 N. 24 th St. Milwaukee, WI | No position stated. | Observed. |

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| 160. Carrie Palmer 3270 N. 30 th St. Milwaukee, WI Jayia1@msn.com | No position stated. | Observed. |
| 161. Lillie B. Jew Sista Child Two Day Care 3607 N. 53 rd St. Milwaukee, WI | No position stated. | Observed. |
| 162. Dorothy S. Collier Starteji Academy 2548 N. 39 th St. Milwaukee, WI | No position stated. | Observed. |
| 163. Laura Kohlmann Columbia – St. Mary's (Seton) Children's School 8647 N. Port Washington Rd. Fox Point, WI 53217 csrivrpt@columbia-stmarys.org | No position stated. | Observed. |
| 164. Marie L. Bub N77 W16076 Countryside Menomonee Falls, WI 53055 | No position stated. | Observed. |
| 165. Clara M. White A Hand to Hold 346 Maple Ave. Waukesha, WI 53186 ahth@access4less.com | No position stated. | Observed. |
| 166. Chue Her 5220 N. 58 th St. Milwaukee, WI 53218 | No position stated. | Observed. |
| 167. Cecelia Evans 6481 N. 106 th St. Milwaukee, WI 53224 | No position stated. | Observed. |
| 168. Sia V. Her 5220 N. 58 th St. Milwaukee, WI 53218 | No position stated. | Observed. |
| 169. Willie Hopgood 5038 N. 39 th St. Milwaukee, WI | No position stated. | Observed. |
| 170. Kathy Strobel 1701 Vogt Dr mch@nconnect.net | No position stated. | Observed. |
| 171. Sharon Riley 5038 N. 39 th St. Milwaukee, WI 53209 sriley8@sbcglobal.net | No position stated. | Observed. |

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| 172. Brandy Thernal 4261 N. 58 th St. Milwaukee, WI 53216 | No position stated. | Observed. |
| 173. Mai Xee V Lor Lor Family Child Care 218 N. 36 th St. Milwaukee, WI 53208 | No position stated. | Observed. |
| 174. Mai Xiong 223 N. 36 th St. Milwaukee, WI 53208 | No position stated. | Observed. |
| 175. Mai Lor Her Mai Lor Family Day Care 1530 N. 30 th St. Milwaukee, WI 53208 | No position stated. | Observed. |
| 176. Kao Yee Vang 2923 W. Galena St. Milwaukee, WI 53208 | No position stated. | Observed. |
| 177. Liz Kueffer S56 W23565 Maplewood Terr. lkueffer@wi.rr.com | No position stated. | Observed. |
| 178. Donna Grelecki Columbia-St. Mary's Children's School 13133 N. Port Washington Rd dgreleck@columbia-stmarys.org | No position stated. | Observed. |
| 179. Aimee M. Amini 316 Manchester Dr. Waukesha, WI 53188 aimeeamini@netscape.net | No position stated. | Observed. |
| 180. Anne Terry Bright Days Learning Center 2240 Golf Road Pewaukee, WI 53072 anne.terry@med.ge.com | No position stated. | Observed. |
| 181. Louise Hansen 1910 Marliz Dr | No position stated. | Observed. |
| 182. Rita Frank 2170 Murphy Woods Rd. Beloit, WI 53511 | No position stated. | Observed. |
| 183. Luanne Platt The Registry 5307 Dennis Dr. McFarland, WI lplatt@charter.net | No position stated. | Observed. |
| 184. Rebecca Bores | No position stated. | Observed. |

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| 7711 E. Wind Lake Rd Wind Lake, WI 53185 | | |
| 185. Deb Nygaard 6220 Exchange St. McFarland, WI 53558 stealth@globaldialog.com | No position stated. | Observed. |
| 186. Bevelyn Johnson AJA Enterprise LLC P.O. Box 090289 Milwaukee, WI 53209 Bevjohnson2003@yahoo.com | No position stated. | Observed. |
| 187. Toni Kutner Wisconsin Child Care Improvement Project 971 S. 56 th St. West Allis, WI 53214 Tkutner@prodiqy.net | No position stated. | Observed. |
| 188. Shirley M. Sercombe Vernon Child Development Center S71 W23280 National Ave. Big Bend, WI 53103 Administration@wi.rr.com | No position stated. | Observed. |
| 189. Mary Ann Spencer 1958 W. Keefe Ave. Milwaukee, WI | No position stated. | Observed. |
| 190. Lori K. Oldenberg Lots of Tots FDC 11403 Mc Millin Rd. Whitewater, WI 53190 | Opposes parts of the rules. | Written comments. |
| 191. Helga Guterl Sister House Waukesha, WI 53186 | Opposes parts of the rules. | Written comments. |
| 192. Betty Crystal Sister House Waukesha, WI 53186 | Opposes parts of the rules. | Written comments. |
| 193. Judy S. Guterl 505 N. East Ave. Waukesha, WI 53186 | Opposes parts of the rules. | Written comments. |
| 194. Cathy Birner Sister House Waukesha, WI 53186 | Opposes parts of the rules. | Written comments. |
| 195. Angela Bain Sister House Waukesha, WI 53186 | Opposes parts of the rules. | Written comments. |

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| 196. Chris Miles Sister House Waukesha, WI 53186 | Opposes parts of the rules. | Written comments. |
| 197. Zoe Lecher Sister House Waukesha, WI 53186 | Opposes parts of the rules. | Written comments. |
| 198. Gail Klappen Child Counselor 505 N. East Ave. Waukesha, WI 53186 | Opposes parts of the rules. | Written comments. |
| 199. Lisa Kratcha lkratcha@chorus.net | Opposes parts of the rules. | Written comments. |

Public Comments and Department Responses

| Comment Sequence Number and Rule Reference (as found in the initial proposed rule order) | Comment (numbers are associated with person listed on the list of hearing attendees and commenters) | Department Response |
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| 1. General | Supports revisions as proposed. (19, 20, 50, 89 112, 114, 122, 127, 130) | No response required. |
| 2. General | Generally oppose the revisions as proposed. (21, 22, 23, 24, 25, 51, 52, 54, 99, 103) | The Department disagrees and believes that the proposed revisions to the chapters will help protect the health, safety and welfare of children attending child care programs. |
| 3. General | Requests that the Department consider a new category of care that would allow 10 –12 children to receive care in a "large group home" or "large family child care center. (95, 121, 122) | <p>This suggestion is outside the scope of the changes to the rule the Department is proposing.</p> <p>In 2001, the Department proposed developing a new category of care, tentatively called "Large Family Child Care Center." This category of care would have allowed a center to be licensed to care for between 9 and 12 children. The initial assumption regarding the need for a new category was that it would expand the capacity of licensed family child care providers to care for a few more children without having to meet the more stringent requirements of a group child care center. After further discussion and research, the Department has now concluded that establishing this category of care for Large Family Child Care Centers would not be feasible for most family child care centers because of the Wisconsin Department of Commerce Commercial Building Codes and existing statutory language related to zoning.</p> <p>The Department of Commerce Commercial Building Codes currently exempt child care programs located in 1 or 2-family residences and licensed to care for no more than 8 children from the requirements related to the Commercial Building Codes. This exemption does not apply to programs licensed for 9 or more children, so centers that might fall into the Large Family Child Care Center code would need to meet the Wisconsin Commercial Building Codes. Most of the interest in this new category of care comes from the licensed family child care centers located in a provider's home. These programs would need to do</p> |

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| | | <p>extensive and costly renovations to their homes in order to meet the Commercial Building Codes.</p> <p>Section 66.1017, Wis. Stats., currently exempts some family child care centers from local zoning ordinances. Specifically the statute states: "No municipality may prevent a family day care home from being located in a zoned district in which a single-family residence is a permitted use. No municipality may establish standards or requirements for family day care homes different from the licensing standards established under s. 48.65, Stats. This subsection does not prevent a municipality from applying to a family day care home the zoning regulations applicable to other dwellings in the zoning district in which it is located. This statute currently allows most family child care centers to be exempt from local municipal zoning regulations. This exemption does not apply to centers licensed to care for more than 8 children which means that family child care centers who wish to care for more than 8 children must meet the local zoning ordinances or obtain conditional use permits to operate."</p> <p>The Department already has licensed several small group child care centers (under HFS 46, Licensing Rules for Group Child Care Centers) that are located in a provider's home, meet the Commercial Building Codes and comply with zoning requirements of the local municipality. The Department believes that existing rules can accommodate those licensees who wish to care for a few more children eliminating the need for a new category of care.</p> |
| 4. General | Supports changing the name of the rule from "Day Care Centers" to "Child Care Centers." (21, 22, 23, 52) | No response required. |
| 5. General | Supports background checks for child care providers. (95) | No response required. |
| 6. General | Opposes requiring additional documentation requirements. (114) | The Department has reviewed the documentation required in the revisions to the rules and has modified several rules to lessen the requirements for documentation. Specifically, the Department has proposed modifying s. HFS 45.06(1)(b) and HFS 46.06(1)(b) 6. to eliminate the requirement that licensees need to document sealing CCA-treated lumber on playgrounds. The Department has also modified s. HFS 45.04(3)(d) and HFS 46.04(3)(f) to eliminate the requirement that licensees must submit a plan of correction for violations of the licensing rules. Furthermore, the Department is modifying s. HFS 45.10(4)(a) to remove the requirement that the licensee must document that providers have obtained training in the evacuation of sleeping children in centers |

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| | | <p>providing care between the hours of 9 PM and 5 AM. The Department believes that these changes will reduce the amount of documentation required of family child care licensees and will not hinder the Department's ability to ensure that children receive safe care.</p> <p>The Department agrees and it will do so before the effective date of the rules.</p> |
| 7. General | Provide all licensed child care centers with a copy of the revised rules before the effective date. (46, 48, 57, 115) | <p>The Department is planning to offer at least one orientation session on the revised rules in each region of the state and will consider the needs of the child care community in the development of orientation tools and sessions.</p> |
| 8. General | Provide an orientation on the final revisions. (46, 115) | <p>The Department is cognizant of costs of running a child care business, but disagrees with the commenter. The Department has researched the proposed revisions to ensure that the potential costs incurred to meet the requirements are not out of line. For example, general liability insurance is not required for family child care providers unless the licensee wishes to give dogs and cats living in the household free and unrestrained access to the children. If licensees that have cats and dogs restrict the animals access to children during the child care day, liability insurance is not required. Additionally, the Department has determined that liability insurance specific to cats and dogs is available to child care providers beginning at approximately \$50 per year for coverage depending on the amount and type of coverage chosen.</p> |
| 9. General | Believes revisions to the current rules will dramatically increase cost of running a business. (107) | <p>A 2001 study on the number of child care providers who are trained in Cardiopulmonary Resuscitation (CPR) indicated that approximately 1/3 of all licensed child care centers had taken CPR or had encouraged or required staff working with children to have a current certificate of completion for CPR training. The Department is working with outside agencies to develop and implement additional resources for making CPR training readily available to providers. Certificates are good for at least 2 years. The range of fees for CPR training varies widely depending on the source of the training and the type of certification obtained.</p> <p>Other requirements that may require some expense for child care centers including entry-level training and continuing education have not been increased or revised. Research has shown that the professional development of child care providers is the key to offering quality child</p> |

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| | | care experiences to young children. The Department believes low or no cost continuing education training is readily available through a variety of sources and that there are T.E.A.C.H. Early Childhood Wisconsin scholarships available for those providers who wish to obtain credit-based training. |
| 10. General | Include form numbers with the rules that require Department forms. (101) | Where appropriate, form titles and numbers are indicated throughout the rule and in Appendix E of the rules. |
| 11. General | Translate rules into Hmong. (50) | The Department agrees and will translate the rules into Spanish and Hmong after the rule promulgation process is complete. |
| 12. General | Requests centers licensed by the state be eligible for state health insurance coverage. (15) | These proposed rule changes address licensing requirements. State health insurance programs, such as BadgerCare, have their own eligibility provisions in statute and administrative rule, and are, therefore, outside the scope of the changes to HFS 45 and 46 the Department is proposing. |
| 13. HFS 46 General | Clarify whether a center must pay for employees continuing education and Registry certificates (3) | These proposed rule changes address licensing requirements. What expenses a center reimburses its employees for is outside the scope of the changes to the rule the Department is proposing. |
| 14. HFS 45.03(6) HFS 46.03(10m) | Clarify the term "emergency" to be more definitive. (21, 22, 23, 46) | No change. The list of emergencies identified in the definition is illustrative and not intended to include every circumstance that may constitute an emergency. The Department believes it best to give the center some discretion regarding what constitutes an emergency. |
| 15. HFS 45.03(11) HFS 46.03(1)(g) | Opposes the statement "exercise unsound judgement" in the definition of fit and qualified because it is vague. (46) | No change. The Department believes the definition is clear as written. Given that the exercise of judgment is situational, it would be impossible to specify what represents "sound judgment" in all cases. |
| 16. HFS 45.03(15) HFS 46.03(14) | Modify definition of inclement weather so that it is not limited to certain weather circumstances. (46, 105) | No change. This list included is meant to be illustrative and not inclusive. The Department believes it best to give the center some discretion regarding what constitutes inclement weather. |
| 17. HFS 45.03(32) HFS 46.03(29m) | Modify proposed definition of Sudden Infant Death Syndrome. (46) | No change. The Department believes it best to adopt the definition of Sudden Infant Death Syndrome provided by the Infant Death Center of Wisconsin. |
| 18. HFS 45.03(35) | Include an appendix with information about the US Occupational Safety and Health Administration (OSHA) | The Department has added a note to the rule that identifies a toll-free telephone number that licensees can call to get information on the |

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| | requirements relating to blood borne pathogens. (27) | OSHA requirements. |
| 19. HFS 45.04(2)(e)9. | Opposes requirement that centers have a written policy that identifies any religious programming that may occur at a center. (99) | No change. The Department believes that including any religious practices or programming that a center implements in the written policy shared with parents helps ensure that parents and caregivers share an understanding of the type of programming at the center. |
| 20. HFS 45.04(2)(f) | Clarify whether the requirement for orientation needs to be a written plan. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98) | The Department has added the word "written" to the rule to clarify that a written orientation plan must be submitted to the department and has included a note that cross references HFS 45.05(2)(a) and (b), which specify whether the orientation documentation must be written or verbal. |
| 21. HFS 45.04(2)(g) | Clarify whether licensees must state actual insurance amounts in their written policy to parents. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 84, 86, 88, 92, 93, 94, 98, 111, 112, 128) | The Department has modified the rule to clarify that licensees need only indicate whether or not they have liability insurance on their business without requiring that licensees reveal the amounts of the coverage. |
| 22. HFS 45.04(2)(k) | Clarify whether the requirement that licensees meet with a representative of the Department means that this meeting must be at the licensing office. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98) | No change. The Department feels that where such meetings take place will be determined by the reason and nature of the meeting. The rule as written allows the Department discretion in determining when and where such meetings are held. |
| 23. HFS 45.04(3)(a) HFS 46.04(3)(a) | Clarify under what circumstances a licensee must report a child's contact with a medical professional. (85) | The Department has modified the rule to say that any death of a child in the care of the center or any accident that results in an injury requiring professional medical treatment must be reported to the Department. |
| 24. HFS 45.04(3)(c) HFS 46.04(3)(L) | Opposes the requirement that a licensee contact the Department prior to any remodeling or new construction in a child care center. (54, 123, 128) | No change. The Department must insure that any changes to the facility will not affect the care of children. All work associated with these changes must meet required building codes. |
| 25. HFS 45.04(3)(f) HFS 46.04(3)(i) | Clarify under what circumstances the Department must be notified if a child leaves the premises of a center. (1, 21, 22, 23, 99) | No change. The Department believes the rule is clear as written insofar as it specifies "any" (all) incidents that are without the knowledge of the center. |
| 26. HFS 45.04(3)(g) HFS 46.04(3)(k) | Clarify whether the Department should be notified regarding any contact with law enforcement officials even minor incidents such as a traffic ticket. (21, 22, 23, 49, 129) | No change. The Department believes that any contact with law enforcement has the potential to impact the care of children and should be reported to enable the Department to make a decision on whether follow-up action is necessary. |
| 27. HFS 45.04(3)(h) HFS 46.04(3)(h) | Clarify what constitutes a change in room usage that must be reported to the Department. (1, 21, 22, 23, 128) | The Department has modified the rule to include examples of changes in room uses. Examples given include changing the way rooms are used by children or using rooms that were not previously approved for use. |

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| 28. HFS 45.04(3)(i) HFS 46.04(3)(j) | Clarify whether an employee discharged because he or she inappropriately disciplined a child must be reported to the child protective services agency. (3) | No change. The Department believes that the licensee must make the determination of when inappropriate discipline of a child by an employee of a child care center must also be reported to the child protective services agency. Section HFS 45.04(8) and 46.04(8) require a licensee or provider who knows or has reason to suspect that a child has been abused or neglected to contact the appropriate authorities. The rules also requires that each provider and substitute receive training in the child abuse and neglect laws, the identification of abuse and neglect and the center's procedure for reporting suspected abuse and neglect. The Department believes that the training required under these rules will provide guidance to licensees and providers on what constitutes child abuse or neglect and when it is appropriate to contact the child protective services agency. |
| 29. HFS 45.04(3)(i) HFS 46.04(3)(l) | Define a change in program services that would require the Department be notified prior to the change. (128) | The rule has been clarified to give examples of program services such as changes in transportation or food services, and seasonal closing. |
| 30. HFS 45.04(4)(b) | Opposes requirement that parents be given a copy of the summary of the licensing rule and requests the rule be changed to allow a copy of the summary of the rules available at the center. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98) | No change. The Department believes that parents as consumers of licensed child care need to be informed of the protections offered to children from the licensing rules. Supplying parents with a summary of the licensing rules will serve to educate and inform parents of the rules a licensee agrees to follow when a license is issued. Because parents are in centers on a daily basis when dropping off and picking up their children they will be better able to notice when a licensing violation may occur. Having a summary of the rules provided to the parent will allow the parent to have ready access to information about what to expect in their child's care setting. This summary of the rules developed by the Department also includes information on how to alert the Department when a parent has concerns about the care provided. |
| 31. HFS 45.04(5)(b)&(c) HFS 46.04(5)(a) | Opposes requirement for background checks every 4 years. (121) | No change. The rule reflects the statutory requirements for caregiver background checks found in s. 48.685(3) of the Wisconsin statutes. |
| 32. HFS 45.04(5)(b)&(c) HFS 46.04(5)(b)&(c) | Clarify time frames for background checks. (2) | The Department has modified the rule to reflect the statutory requirements for caregiver background checks found in s. 48.685(3) of the statutes. Licensees are responsible for knowing and acting in accordance with state laws regarding caregiver background checks. |
| 33. HFS 45.04(5)(c) | Clarify why complete background checks are not required before an employee begins work. (21, 22, 23) | No change. Existing Wisconsin statutory requirements for caregiver background checks do not require such checks to be completed before |

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| HFS 46.04(5)(a)3. | | an employee begins work. The Department believes it important to maintain consistency among requirements under the law. |
| 34. HFS 45.04(5)(d) | Develop a new form to document hours worked by an employee or substitute. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98) | No change. There are many standardized time reporting forms readily available and the Department believes a new form is not necessary. |
| 35. HFS 45.04(5)(e) | Clarify how often a provider must have a physical exam. (12) | No change. The rule states that a physical examination must be completed within 12 months prior or 30 days after the person becomes licensed or begins working with children. No subsequent physical exam is required under the rule. |
| 36. HFS 45.04(6)(a)1. HFS 46.04 (6)(a) | Modify the wording in the rule that requires child enrollment information be on file at the center "prior to the child's first day" to "by or on the child's first day". (21, 22, 23, 46) | No change. The Department believes that it is necessary to have enrollment information (including information on contacting parents, a child's health history and consent for emergency medical consent on file before the child is left at the center for care. Modifying the rule as suggested by this commenter could be interpreted to mean that the child could be in care without this information as long as it was provided by the end of that first day of attendance. Requiring the information be on file prior to the child's first day of attendance allows a parent to bring the enrollment information to the center at the same time as the child on the first day of attendance. |
| 37. HFS 45.04(6)(b) | Opposes the requirement that the center record birth dates of children in care on the attendance forms. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98, 107, 123) | No change. In addition to verifying which children are present in a center at any given time, attendance records also are used to verify that the center is in compliance with staff to child ratios. The Department believes the addition of a child's birth date to these records instead of in the child's file will help licensees and the Department insure that the appropriate staff-to-child ratios are adhered to. Attendance records are also used by other agencies (such as W-2 agencies administering child care subsidies and the Child and Adult Care Food Program) that may need to know the dates of birth for children listed on the attendance record. |
| 38. HFS 45.04(6)(c) | Opposes requirement that every injury a child might receive including bumps, bruises, scratches or bites be logged in the medical log book. (99, 128) | No change. The medical log book is a formal record relating to injuries received by a child while in attendance at a center. Recording all injuries in a log book provides a permanent record should the injury turn out to be more serious than originally suspected. All child care providers are mandated reporters of suspected child abuse. Therefore, logging any injury observed on a child may provide an indication that child abuse is occurring. |

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| 39. HFS 45.04(8)(b) | Opposes requirement for training in child abuse and neglect identification and reporting procedures every 2 years. (97) | No change. Because child care providers are mandated reporters of suspected child abuse and neglect, the Department believes that training every 2 years in identification of suspected abuse and reporting procedures is necessary to ensure that all providers are very aware of these signs. |
| 40. HFS 45.04(8)(b) | Supports requirement for training in child abuse and neglect identification and reporting procedures. (27) | No response necessary. |
| 41. HFS 45.04(8)(b) | Clarify who will provide training in child abuse and neglect identification and reporting. Describe how the training is going to be available and what will it cost. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98, 115) | No change. Training in child abuse and neglect identification and reporting procedures is currently readily available at no or low cost from county departments of social or human services and law enforcement agencies. |
| 42. HFS 45.05(1)(b) | Require family child care providers to have a high school diploma. (97) | No change. Licensed family child care providers are required to be at least 18 years old and to complete competency-based early childhood specific entry level training as well as annual continuing education in caring for children. The courses identified in the rule as meeting the requirement for entry-level training were specifically designed to train child care providers in topics that related to the care of children. Students in these courses must demonstrate that they understand the information presented and have the skills necessary to provide safe care to children. The Department does not currently require providers to have a high school education and the Department believes that ensuring providers have specific competency-based training in the care of young children is more relevant than a high school diploma. |
| 43. HFS 45.05(1)(b) HFS 46.05(1)(d) | Clarify which non-credit courses meet entry level training requirements. (4, 8, 9) | The Department has added notes where appropriate in HFS 45 and 46 that provides the names of the Department-approved courses that can be taken to meet entry level training requirements. |
| 44. HFS 45.05(1)(b)3. | Opposes requirement that substitute care providers meet the entry level training requirements within 6 months of providing care, especially if substitutes are used very occasionally. (12, 58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98, 112, 113, 114, 115, 116, 125, 126, 128, 130) | The Department agrees and has modified the rule to indicate that a substitute must have obtained the entry-level training required under the rule after they have worked in a program for 240 hours. |
| 45. HFS 45.05(1)(b)3. | Opposes requirements that substitutes, volunteers and any person used to meet staff to child ratios are required | No change. The Department believes that all persons providing care on a regular basis to children should meet the entry-level training |

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| | to have the same qualifications as the primary caregiver. (12, 17, 26, 95, 96, 129) | requirements. The courses required for entry level training are designed to give any person caring for children a basic understanding of child development and to provide information on what is required of a provider under the licensing rules. The Department believes that substitutes, volunteers and other persons used to meet the staff to child ratios need the same information as the primary provider when working with young children. Therefore the Department is requiring all persons working with children and used to meet the staff to child ratio to have the same training. |
| 46. HFS 45.05(1)(b)4. | Include training specific to working with children with special needs in the continuing education requirements. (13) | No change. The list of types of continuing education training is illustrative and the Department believes that providers must be able to choose the training that is most relevant to the children in the care of that particular center. There are many types of special needs that a child might have, such as health problems, behavioral challenges, mental health issues and other types of special needs. Allowing licensees discretion in choosing the type of continuing education obtained will allow a provider to customize the training to meet the specific needs of the children enrolled in the center. |
| 47. HFS 45.05(1)(b)4. HFS 46.05(2)(c)7. | Clarify the number of hours that can be used for continuing education that result from independent reading or video watching. (3) | The Department has modified the rule to include the number of hours that may be spent doing independent reading or video watching to meet continuing education requirements. |
| 48. HFS 45.05(1)(b)5. HFS 46.05(2)(c)6. | Supports addition of requirement for CPR training for all person in contact with children. (21, 22, 23, 27, 58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 89, 92, 93, 94, 95, 98, 113, 115) | No response necessary. |
| 49. HFS 45.05(1)(b)5. HFS 46.05(2)(c)6. | Clarify which agencies may provide a certificate of completion for CPR training. (18) | No change. The Department did not specify those training agencies authorized to provide CPR training to allow licensees a range of choices. |
| 50. HFS 45.05(1)(b)5. HFS 46.05(2)(c)6. | Opposes requiring current CPR training for all persons who have regular contact with children. (18, 91) | No change. In order to protect children in care, the Department believes that all persons who have regular contact with children should be trained in CPR. |
| 51. HFS 45.05(2)(a) | Clarify how often employees, volunteers and substitutes should receive orientation. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98) | No change. The Department believes the rule clearly indicates that orientation is only required prior to beginning work. Licensees are encouraged to review orientation items periodically to make sure that all persons working with children are reminded of the center's policies and procedures, but such reviews are not required. The Department will |

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| | | allow a review of the orientation materials to be counted towards the continuing education hours required should the licensee wish to require a review. |
| 52. HFS 45.05(2)(a) | Opposes the requirement that substitutes document that they have received an orientation to the program before caring for children. (99) | No change. The Department believes that persons providing care in the absence of the regular provider need to have information that will allow them to provide care and supervision to the children. Documentation of this orientation is necessary in order to ensure that an orientation took place. |
| 53. HFS 45.05(2)(a) | Supports the requirement that all substitutes document they have received an orientation to the program before caring for children. (129) | No response necessary. |
| 54. HFS 45.05(2)(a)&(b) | Supports requiring employees, substitutes, volunteers and emergency back-up providers to have an orientation to the program. (115, 128, 129) | No response necessary. |
| 55. HFS 45.05(2)(a)&(b) HFS 46.05(2)(a)12. | Clarify whether the requirement for training in SIDS risk reduction procedures must be an extensive 2-hour training or just a review of a center's SIDS risk reduction procedures. (110) | No change. The rule as written allows the licensee to determine what constitutes training in SIDS risk reduction procedures. The licensing rules are being modified to include SIDS risk reduction methods including placing children under one year of age to sleep on their backs, prohibitions on stuff animals and other soft items in a child's crib, requirements that mattresses fit tightly and that coverings in the crib do not obstruct a child's ability to breathe. Centers are required to address the specific procedures they will use to reduce the risk of SIDS in their health policies and to review these procedures with all staff before the staff begins to work with children. |
| 56. HFS 45.05(2)(b) | Clarify whether emergency back-up providers may receive an oral orientation or whether the orientation can be a written document shared at the time the emergency back-up provider is needed. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98, 99) | No change. The rule as written allows for either a written or oral orientation of emergency back-up providers. However, the rule also requires that emergency back-up providers know the name, age and arrival and departure information for each child in care at the time the emergency back-up provider is present. The written orientation plan required under s. HFS 45.04(2)(f) must address how the licensee will insure that this information is shared with emergency back-up providers. |
| 57. HFS 45.05(3)(i) | Opposes the requirement for sight and sound during meals in a family child care center. (27, 52, 58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 97, 98, 116, 128) | The Department believes that children need close supervision during times when children are eating, but the Department is sensitive to the commenters' concerns about the difficulties associated with one person supervising all children through sight and sound in a home setting. |

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| | | <p>Therefore, the Department has deleted the rule that requires sight and sound supervision during meals and proposed a new rule that requires close supervision to guide children's behavior, prevent harm and ensure safety.</p> |
| 58. HFS 45.05(3)(j) | Opposes the requirement for sight and sound supervision of children under 5 years of age while outside. (12, 27, 97, 111, 116, 128) | <p>The Department believes that children need close supervision when they are playing outside, however, the Department is sensitive to the commenters' concerns about the difficulties associated with one person supervising children when some children may be outside and others inside a home-based center. Therefore, the Department has deleted the rule that requires sight and sound supervision while children under age 5 are outside. The Department has proposed a new rule that requires a provider to be outside with the children if the children are not playing inside the permanent enclosure (fenced area) on a playground on the premises, if a fence is required because hazards are nearby. By adding this requirement, the Department believes that the licensee can ensure that children are either playing in a safe enclosed area on the premises or supervised by a provider who is outside with them when they are outside an enclosed area.</p> |
| 59. HFS 45.05(3)(i) and (j) | Supports requirement for sight and sound supervision of children during meals and while children under 5 years of age while outside. (129) | <p>The Department agrees that close supervision is necessary during times when children are eating or children under age 5 are outside. However, the Department is also sensitive to other commenters' concerns about the difficulties associated with one person supervising children in a home setting. Therefore, the Department has deleted the rules that require sight and sound supervision during meals and when children under age 5 are outside and proposed new rules to address these concerns while protecting children in care. One of the new rules requires that each child be closely supervised by a provider to guide children's behavior and activities, prevent harm and ensure safety. The other new rule requires children to play inside an enclosed area on the premises unless an enclosure is not required or the center has been granted an exemption to use play space that is off the premises.</p> |
| 60. HFS 45.05(4)(b) and Table 45.05 | Supports having lower staff to child ratios if there are children with special needs present in the family child care center. (47) | <p>No change. The Department believes placement in child care for children with special needs must be evaluated on a case-specific basis and in conjunction with the parent and medical professionals. The licensing rules do not preclude lower staff to child ratios should a situation require additional staff resources.</p> |
| 61. HFS | Add requirement that there must be at least 2 child care | <p>No change. The staff to child ratios for one child care provider are</p> |

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| 45.05(4)(b) and table 45.05 | providers be available to care for 8 children, regardless of age. (122) | consistent with the American Academy of Pediatrics standards found in the <u>Caring for Our Children: National Health and Safety Performance Standards, Second Edition, 2002</u> . While the department encourages licensees to reduce staff to child ratios, the department believes that requiring additional providers in a family child care setting would substantially increase the costs associated with running a program. |
| 62. HFS 45.05(4)(b) and table 45.05 | Modify the staff to child ratio table to lower the age to kindergarten of the maximum number of additional school age children who may in care when more children under age 2 are present. (108, 199) | No change. The Department believes that changing the age of a school age child to age 5 and enrolled in kindergarten will reduce the ability of one provider to adequately supervise all children during those periods when there are between 2 and 4 children under age 2 in care. |
| 63. HFS 45.05(4)(b) and Table 45.05 | Supports staff to child ratios as included in rule. (14) | No response necessary. |
| 64. HFS 45.05(4)(b) and Table 45.05 | Modify the staff to child ratios to allow more infants and toddlers to be included when there is only one provider available. (11, 12, 15, 47, 75, 101, 199) | No change. The Department concurs with the research that indicates that lower staff to child ratios and lower maximum group sizes are predictors of higher quality childcare. Research into early brain development also indicates that the amount and quality of interactions between an infant and his/her caregiver is critical for maximal brain development. The Department believes the current staff-to-child ratios ensure that children receive adequate supervision and attention by a child care provider. |
| 65. HFS 45.05 Table 45.05 | Modify the staff to child ratio chart to indicate that the maximum capacity of a family child care center is 8, regardless of whether there are 2 providers present. (13) | The Department has added a note to the chart that references s. HFS 45.03 (9) and 45.05 (4)(a), which specify that there may never be more than 8 children in care. The Department has also moved the second sentence under s. HFS 45.05(4)(b) to a separate rule and added a note that provides an example of when 2 providers might be necessary to help clarify the rule. |
| 66. HFS 45.06(1)(a) | Clarify how often a licensee must submit a statement from a building inspector indicating a building that is not a 1 or 2 family residence conforms with the applicable Wisconsin Commercial Building Codes. (129) | No change. This rule reflects current Wisconsin Commercial Building Codes that require family child care centers (that are not located in a 1 or 2 family dwelling) to conform with the applicable building codes. The inspection report is required prior to initial licensure. Subsequently, a report would be required only if there are any structural changes to a building after the initial license is issued. |
| 67. HFS 45.06(1)(b)3. | Supports requiring air circulation when the indoor temperature reaches 80 degrees. (129) | No response necessary. |

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| <p>68. HFS 45.06(2)(g)</p> | <p>Clarify when protective railings are necessary if there are differences in elevations. (97)</p> | <p>No change. Examples of situations that might require protective railings (open sides of stairways, elevated platforms, walks, balconies, mezzanines) are currently included in the draft rule. This list is illustrative and not intended to include all examples of when protective railings should be in place.</p> |
| <p>69. HFS 45.06(2)(h) HFS 46.06(2)(h)</p> | <p>Opposes the rule that prohibits smoking on the premises of a center. (46, 111)</p> | <p>No change. The rule is consistent with the statutory requirements under s. 101.123, Stats., for clean indoor air.</p> |
| <p>70. HFS 45.06(2)(h) HFS 46.06(2)(h)</p> | <p>Clarify what constitutes premises when determining where smoking is prohibited. (7, 21, 22, 23)</p> | <p>The Department has added a note in the rules referencing the definition of "premises" under s. HFS 45.03(25) and 46.03(25). In the definitions "premises" means the tract of land on which the center is located, including all buildings and structures on that land.</p> |
| <p>71. HFS 45.06(2)(h) HFS 46.06(2)(h)</p> | <p>Supports prohibiting smoking on the premises of a center. (7, 21, 22, 23)</p> | <p>No response necessary.</p> |
| <p>72. HFS 45.06(7)(b)3.</p> | <p>Opposes requirement for openable windows with screens in every room. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98)</p> | <p>The Department did not intend to require that each room in a family child care center that is accessible to children had to have openable windows with screens. Therefore, the Department and has modified the rule to say that windows capable of being opened in areas of the center that are accessible to children must have screens.</p> |
| <p>73. HFS 45.06(1)(b)</p> | <p>Clarify what type of ground cover is acceptable in outdoor play space. (14)</p> | <p>No change. The rule does not specify a particular kind of ground cover that is required on outdoor play spaces to allow the licensee to choose the preferred ground cover preferred. The rule does prohibit playground equipment from being placed over concrete or asphalt.</p> |
| <p>74. HFS 45.06(1)(b)3 HFS 46.06(1)(b)6</p> | <p>Supports the requirement that all wooden outdoor structures constructed with CCA treated lumber on the premises of a center and accessible to children be sealed every 2 years. (129)</p> | <p>No response necessary.</p> |
| <p>75. HFS 45.06(1)(b)3 HFS 46.06(1)(b)6</p> | <p>Clarify why structures built with CCA treated lumber must be sealed every 2 years. (6)</p> | <p>No change. This requirement is based on research conducted by the U.S. Environmental Protection Agency. According to the EPA, effective 12/31/03, no wood treater or manufacturer may treat wood with CCA for most residential uses. The EPA has determined that children who play on structures built with CCA treated lumber may be exposed to arsenic that was used in the manufacture of CCA-treated lumber. The EPA indicates that while it is premature to reach conclusions about the</p> |

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| | | potential for CCA-treated structures to contribute to cancer risks to children, they recommend the use of sealants to help lower exposure to CCA. Therefore, the Department is requiring that all structures on playground built with CCA treated lumber be sealed every 2 years. The requirement that centers document such sealing was removed from the rule to reduce documentation requirements. Structures built with treated lumber manufactured after 12/31/03 will not be required to be sealed if licensees can demonstrate that the lumber was not treated with CCA preservative. The EPA believes and the Department concurs that there is no reason to remove or replace CCA-treated structures or surrounding soils. |
| 76. HFS 46.06(12)(a) | Opposes any prohibition of swimming pools on the premises of a center. (91, 190) | The rules do not prohibit the presence of swimming pools on the premises of a child care center. Section HFS 45.06(12)(a) does prohibit children in the care of a center from using a swimming pool on the premises of a center. It also spells out protections that must be in place if a center is located on the premises of a center. |
| 77. HFS 45.06(12)(a) | Clarify what constitutes a wading pool vs. swimming pool. (1, 2) | No change. Wading pools are defined in HFS 45.03(37) as shallow pools having sides 15 inches or less in height, capable of being dumped to change water and used primarily for small children. |
| 78. HFS 45.06(12)(a) HFS 46.06(12)(a) | Opposes requirements that prohibit children from using a swimming pool on the premises of a child care program. (72,100,102,119, 191,192, 193, 194, 195, 196, 197, 198) | No change. The Department believes that the use of a swimming pool on the premises of a licensed child care center may result in injuries or drowning and may hinder the supervision of children in care. The Department has prohibited the use of above ground swimming pools by children in care by rule since 1989. This rule revision prohibits the use of in-ground pools by children in care and is consistent with the certified child care programs. Centers may use a public pool or beach that provides opportunities for children to swim in other locations regulated by local and state authorities. The revisions also allow the use of wading pools by children in care. |
| 79. HFS 45.06(12)(a) HFS 46.06(12)(a) | Requests that swimming pools in YMCA's be exempt from the prohibition on using pools on the premises of a center. (49) | No change. Sections HFS 45.02(2) and 46.02(2) allow for exceptions to a rule when a center satisfactorily demonstrates to the Department that granting the exception will not jeopardize the health, safety and welfare of any child served by the center. The Department will work with YMCA's and other programs that wish to use a pool on the premises to determine what protections must be in place in order to grant an exception and adequately protect the children in care. |

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| 80. HFS 45.06(12)(a) HFS 46.06(12)(a) | Clarify that only pools on the premises of a center may not be used by the children in care. (46) | The Department agrees and has made this modification. |
| 81. HFS 45.06(12)(c)3 | Opposes the proposed staff to child ratios when children are swimming. (99, 114, 116, 129) | No change. The Caring for Our Children: National Health and Safety Performance Standards, Second edition, 2002 from the American Academy of Pediatrics, were used as a guideline in the development of this rule. The rationale for the ratios recommended in the National Health and Safety Performance Standards indicates that "the circumstances surrounding drowning and water-related injuries of young children suggest that requirements and environmental modifications will reduce the risk for this type of injury. Essential elements are close continuous supervision" and other modifications to the physical environment. The modifications to the physical environment recommended have been addressed in s. HFS 45.06(12)(a) and 46.06(12)(a). The Department believes that lower staff-to-child ratios when children are swimming will help assure that children are closely supervised with an adult readily available in the event the child has difficulty in the water. |
| 82. HFS 45.07(2)(b) | Clarify when time outs may be used with children over age 3. (5) | No change. The Department allows licensees to determine those circumstances when a child may be placed in a time-out. |
| 83. HFS 45.07(2)(c)3. HFS 46.07(2)(e)3. | Opposes the addition of the word "holding" to the actions prohibited in the guiding children's behavior rule. (2, 16, 21, 22, 23, 46, 74, 87, 89, 91, 106, 110, 120) | The Department has changed the word "holding" to the term "physical restraint" and added a definition of physical restraint to clarify the rule. |
| 84. HFS 45.07(3)(e) | Opposes the prohibition of trampolines in areas accessible to children and the use of trampolines by children in care. (52, 72, 97, 119, 193) | No change. The Consumer Products Safety Commission (CPSC) has recommended that young children not use trampolines and the Department believes this rule is consistent with the CPSC guidelines. |
| 85. HFS 45.07(5)(d) | Opposes requirement for written weekly menus. (12, 52, 55, 80, 99, 111, 112, 128) | The Department agrees and has modified the rule to require that the licensee keep a written record of meals and snacks served to children. |
| 86. HFS 45.07(5)(h) HFS 46.07 (5)(a)9. | Clarify what medical conditions require authorization from the child's physician for a special diet. Does a food allergy constitute a medical condition which would require authorization from the child's physician? (12, 21, 22, 23) | The Department has modified the requirement in the rule to make it clear that special diets related to a medical condition, but not a food allergy, require physicians instructions. The Department has added another rule that specifies that diets for children with food allergies may be requested by parents without requiring physician authorization. |

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| 87. HFS 45.07(6)(a)1 | Opposes requirement that a parent who has symptoms of illness or communicable disease may not be in contact with the children in care. (27, 46) | No change. The Department believes that parents and anyone else who has symptoms of an illness or communicable disease may spread that illness to children and should be excluded from a center. |
| 88. HFS 45.07(6)(c)2.b. HFS 46.05(1)(j)4b | Clarify who in the Department has the authority to require an examination by a physician or mental health professional. (12, 21, 22, 23) | No change. In order to protect the children in care, there may be circumstances when an examination by a physician or mental health professional is necessary. Department licensing management staff consult with legal counsel to determine when such an examination may be required. |
| 89. HFS 45.07(6)(a)2.b. HFS 46.05(1)(j)4.b. | Questions why the Department has the right to require an examination if a person's behavior gives the Department concern for the safety of children. (21, 22, 23) | No change. In order to protect the children in care, there may be circumstances when an examination by a mental health professional is necessary. Section 48.67 of the statutes states in part that the Department shall promulgate rules establishing minimum requirements for issuing licenses. It further states, in part, that the rules shall be designed to protect and promote the health, safety and welfare of children in the care of licenses. Section 48.70 (1) of the statutes states, in part, that each license shall state the name of the license, premises, etc., and "such additional information and special conditions as the department may prescribe." The language in those statutes, read together, provides broad authority for the Department to promulgate rules that it determines best protects and promotes the health, safety and welfare of children. A rule that requires a mental health exam of a person whose behavior gives reasonable concern for safety of children falls within the Department's statutory authority to prescribe special conditions for licensure. The examination is confidential and can provide a safety net for the applicant as well as the Department. |
| 90. HFS 45.07(6)(d) | Define a mildly ill child. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98, 126) | No change. "Mildly ill" is defined in section HFS 45.03(20) as a child who has a common, temporary illness that is non-progressive in nature and is not listed on the communicable disease chart in appendix A of ch. HFS 145. |
| 91. HFS 45.07(6)(d) | Opposes regulations that will allow mildly ill children to receive care in centers. (99, 128) | No change. These rules come at the request of child care provider groups in an effort meet the needs of working parents. The Department believes that the needs of the child care provider, the parent and the child can be met if the restrictions specified in paragraph (d) are adhered to. |
| 92. HFS 45.07(6)(d) | Opposes requirements that regulate when and how children who are mildly ill can be in care. (99) | No change. Section HFS 45.07(6)(a), (b) and (c) prohibit the care of children who are ill. For the benefit of centers, parents and children, the |

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| | | Department has specified conditions under which children who are mildly ill can receive care in the child care setting. |
| 93. HFS 45.07(6)(e)1. | Clarify when communicable diseases must be reported to local health departments. (10) | No change. The Department believes the rule is clear as written insofar as it states that notification should be given when (as soon as) a child is determined to have a reportable communicable disease. |
| 94. HFS 45.07(6)(e)2. | Clarify when children who were ill can be allowed to return to child care. (121) | No change. The Department has already issued guidance on this question and describes in the note following subdivision 2. how to obtain additional guidance from the Division of Public Health on readmitting children. |
| 95. HFS 45.07(6)(f)1.a. HFS 46.07(6)(f)1.a. | Opposes the prohibition on blanket authorizations for medications. (2, 5, 21, 22, 23, 56) | No change. The Department believes that parents should specifically authorize the use of medication prior to the medications dispensing. Blanket authorizations allow the center to determine when medication is appropriate for a child rather than the parent. This rule does not preclude a parent, in consultation with a center, to authorize the center to administer over the counter medication to a child if, for instance the child starts to run a fever and it will take the parent a while to get to the center to pick up the child. The rule says that there can not be a standing order for medication unless it is for a specified condition and period of time. |
| 96. HFS 45.07(6)(f)2. HFS 46.07(7)(b) | Clarify what type of written documentation is necessary for the application of sunscreen or insect repellent. (12) | No change. The Department believes the rule is clear as written and has given licensees the discretion regarding what type of written authorization to use. |
| 97. HFS 45.06(6)(f)2. HFS 46.07(7)(b)2. | Requests that the recording of the application of diapering creams, powders and ointments be addressed in this section. (3) | No change. The recording of the application of diapering creams, powders and ointments are addressed in the sections relating to diapering of children. |
| 98. HFS 45.07(6)(g) | Opposes the requirement that towels and wash cloths must be individual to each child. (47) | No change. Shared towels and wash cloths can transmit germs and dirt between children, and the Department believes that such potential transmission vehicles be eliminated to the extent possible. |
| 99. HFS 45.07(7) HFS 46.07(7) | Opposes rules relating to pets in child care centers. (27, 52, 54, 57, 65, 66, 67, 68, 69, 70, 71, 97, 99, 111, 117) | No change, except as noted under the Department's responses to other comments pertaining to sub. (7). The Department believes that these requirements are necessary to protect children when pets are present in child care centers. |
| 100. HFS 45.07(7) | Clarify whether pets already present in a child care | No change. The Department believes that in order to protect children in |

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| HFS 46.07(7) | center will be grandfathered in. (21, 22, 23) | care, all centers that choose to have pets in the center must follow the proposed rules. The Department is not proposing to "grandfather" in centers that currently have pets but will consider requests to an exception to a specific rule under s. HFS 45.02(2) and 46.02(2) if the licensee can demonstrate to the satisfaction of the Department that health, safety and welfare of the children in care will not be jeopardized by granting the exception. |
| 101. HFS 45.07(7)(b) HFS 46.07(7)(b) | Define what is considered a risk to children relative to the presence of pets in a center. (46, 58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98) | No change. The definition of risk may be different depending on the type of pet at the center. The Department believes that licensees must use their discretion when determining whether a particular animal poses any risk to children. |
| 102. HFS 45.07(7)(b) HFS 46.07(7)(b) | Supports the requirement that states that pets that pose a danger should not be accessible to children. (128) | No response necessary. |
| 103. HFS 45.07(7)(c) HFS 46.07(7)(c) | Opposes requirement for prior notification to parents of the number and types of pets on the premises of a child care center. (123) | No change. The Department believes that parents must have information related to the presence of pets on the premises of a child care center to enable them to determine whether that placement is appropriate for the child. |
| 104. HFS 45.07(7)(c) HFS 46.07(7)(c) | Allow parents and providers to decide if pets should be around the children. (72, 102, 119, 190, 192, 193, 194, 195, 196, 197, 198) | No change. The Department agrees that parents and providers need to decide whether a placement of a child in a facility with pets is appropriate. The rule, as written, gives parents and providers the discretion to have pets around children. |
| 105. HFS 45.07(7)(c) HFS 46.07(7)(c) | Clarify how are parents to be made aware of pets on the premises. (58, 59, 60, 61, 62, 63, 77, 78, 79, 82, 83, 86, 88, 92, 93, 94, 98) | No change. The rule as written requires providers to inform parents of the number and types of pets in the facility as well the type of access the children will have with the pets and for parents to acknowledge in writing receipt of this information. |
| 106. HFS 45.07(7)(d) HFS 46.07(7)(d) | Opposes the prohibition of large parrots as well as reptiles and amphibians in areas of the center accessible to children. (104, 114) | The Department has modified the rule to say only that certain pets may not be accessible to children instead of prohibiting the animals altogether. |
| 107. HFS 45.07(7)(e) | Opposes requirement for sight and sound supervision of children when pets are in areas of the center accessible to children. (111) | No change. The Department believes that child care providers need to be close by to prevent injuries when children and pets are in the same area. |
| 108. HFS 45.07(7)(f) | Opposes requirement that prohibits pet feeding dishes in kitchen or food preparation, storage or service areas. | No change. Research supports that animals such as cats and dogs can become aggressive when eating. The Department believes this rule is |

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| HFS 46.07(7)(f) | (26, 84, 107, 113, 123, 126) | necessary to protect the children from animals who may be protective of their feeding dishes and food. |
| 109. HFS 45.07(7)(f) HFS 46.07(7)(f) | Opposes requirement that prohibits pet feeding dishes and litter boxes in areas of the center accessible to children. (14, 26, 113, 124) | No change. The Department believes that pet feeding dishes and litter boxes must not be accessible to children in order to keep the center clean and sanitary as well as protect children from danger. |
| 110. HFS 45.07(7)(g) HFS 46.07(7)(g) | Opposes requirement that outdoor play areas be free of animal excrement. (116) | No change. Animal excrement is a source of bacteria and germs that may cause illness. The Department believes this requirement protects the health of children in care. |
| 110. HFS 45.07(7)(h) HFS 45.07(7)(h) | Define a certificate of liability insurance specifically covering the presence of dogs and cats. (107, 126) | The rule has been modified to specify that a current certificate of liability insurance should be that issued by an insurance carrier. |
| 111. HFS 45.07(7)(h) | Opposes requirement that a current certificate of insurance be on file with the licensing agency if pets are present in areas of the center accessible to children. (46, 81, 107, 123) | No change. The Department does not require any liability insurance for programs licensed as family child care centers under HFS 45. This rule is designed to ensure that child care providers and consumers are protected if an injury occurs as the result of a pet being accessible to children. |
| 112. HFS 45.08(2) HFS 46.08(2)(b)3 | Clarify which forms are required when transporting children. Does the current transportation permission form include emergency medical permission or is another form necessary? (21, 22, 23, 116) | Using the forms in their current version would require that both the transportation permission form and the child enrollment form be carried in the vehicle when children are transported. The Department is in the process of reviewing all current forms and looking at designing one form that would contain all the information required under this rule. If a new form is developed, or an existing form modified, the Department will notify licensees of these changes at the time the rule is implemented. |
| 113. HFS 45.08(6)(b) HFS 46.08(4)(d) | Modify rule to allow a twelve year old child to use front seat of a vehicle equipped with passenger side air bags. (21, 22, 23) | To make the rule consistent with National Highway Traffic Safety Administration recommendations, the Department has added language that allows a child over the age 12 to ride in the front seat of a vehicle. |
| 114. HFS 45.09(1)(b) HFS 46.09(1)(b) | Supports requiring providers to have SIDS training. (27, 128) | No response necessary. |
| 115. HFS 45.09(2)(a) | Clarify how quickly a provider must respond to a crying child. (14) | No change. The Department believes in specifying "promptly," the rule is clear as written. |
| 116. HFS 45.09(2)(c) HFS 46.09(2)(c) | Opposes requirement that written authorization from a physician is necessary to place an infant to sleep on his/her back. (2, 128) | No change. The rule is consistent with the American Academy of Pediatric's Caring for Our Children – National Performance Standards for Health and safety in Child Care, Second Edition, 2002 |

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| | | recommendations for sleep positions for infants. This requirement is also consistent with ch. DWD 55 rules that govern smaller certified child care homes. |
| 117. HFS 46.09(3)(d) | Opposes requirement that children under age 12 months be fed only breast milk or formula and not cow's milk. (6) | No change. The rule is consistent with U.S. Department of Agriculture Child and Adult Care Food Program requirements referenced in Appendix C. |
| 118. HFS 45.09(3)(h) | Opposes requirement that infants under 6 months of age be offered drinking water throughout the day. (123) | The Department has modified the rule to specify that infants over the age of 6 months and toddlers shall be offered drinking water throughout the day, unless requested by parents to provide drinking water to younger children. Sections HFS 45.09(1)(c) and (3)(a) require parents and providers to document individual feeding plans for each infant or toddler. |
| 119. HFS 45.09(4)(b) | Clarify whether a disinfectant purchased at a store can be used in place of bleach and water to clean and disinfect diaper changing surfaces. (46, 58, 59, 60, 61, 62, 63, 77, 78, 82, 83, 86, 88, 92, 93, 94, 95) | The Department has modified the rule to include disinfectants made with a quaternary ammonia product or commercially prepared disinfectants containing bleach or quaternary ammonia products as other acceptable disinfecting agents for diaper changing surfaces. |
| 120. HFS 45.09(4)(i) | Opposes requirement that infants and toddlers be required to have their hands washed with soap and running water if it is not developmentally appropriate for a child to stand at a sink to wash hands. (123) | The Department agrees and has added additional language to the rule that allows infants to have their hands washed with a wet fabric or paper wash cloth. |
| 121. HFS 45.11(2)(b) HFS 46.11(1)(c) | Opposes requirement that permits the department to refuse to issue a license or continue an existing license if another center operated by the same licensee is in substantial non-compliance with the rules or has outstanding fines or forfeitures. (46, 90) | No change. Licensees that have difficulty maintaining compliance with the licensing rules in one program often exhibit the same type of difficulty in other programs operated by the same licensee. This language allows the Department to use its discretion to deny a license application or refuse to continue an existing license if the licensee has a history of non-compliance with licensing rules or unpaid fines or forfeitures with another program operated by the same licensee. |
| 122. HFS 45.11(5)(b) HFS 46.11 (5)(b) | Opposes requirement that child care center licensees due for a continuation review must submit a completed application for a license. (73) | No change. This is a statutory requirement under s. 48.66(2), Stats., and a way for the Department to ensure that information currently on file with the Department is current. |
| 123. Appendices B and C in HFS 45 and HFS 46 | Update the appendices with the most recent Child and Adult Care Food Program Meal Pattern Requirements. (109) | The Department agrees and has modified the appendices. |

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| 124. HFS 46.03(8m) | Clarify why a course for credit must be worth at least 2 credits. (21, 22, 23) | No change. The requirement that a course for credit be worth at least 2 credit is consistent with the hour requirement for non-credit courses. The Wisconsin Technical College System equates 18 hours of classroom time with each credit earned; therefore a 2-credit course is equivalent to 36 hours of class time. |
| 125. HFS 46.03(30) and HFS 46.05(4)(e) | There appears to be a contradiction in the rule between the definition of supervision and the supervision rules that apply when children are napping. (21, 22, 23, 46, 76) | The Department agrees and has removed the words "while awake and asleep" from the definition of supervision and clarified section HFS 46.05(4)(e) to indicate that sight or sound supervision is acceptable while children are sleeping but sight and sound supervision is required for awake children. |
| 126. HFS 46.04(2)(g) | Opposes requirement for liability insurance for group child care centers. (46) | The existing administrative rules require all group child care licensees to hold general liability insurance because the Department deems doing so to be an important protection for children and parents using the child care center. Therefore, the Department has not elected to eliminate or lessen this requirement. |
| 127. HFS 46.04(3)(g) | Opposes requirement that licensees take an action on an employee with a pending criminal charge. Licensees may not know of pending charges unless the employee tells them. (46) | No change. The rule as written is consistent with the statutory requirements for caregiver background checks expressed in ch. HFS 12. |
| 128. HFS 46.04(6)(a)1. | Modify requirement for a statement from the parent about an infant or toddlers regular sleep position because in other rules infants are required to be placed to sleep on their backs. (46) | The Department agrees and has removed the deleted the proposed language change from the rulemaking order. |
| 129. HFS 46.05 | Clarify how volunteers may be used in a center. (85) | No change. The Department believes the current rules in conjunction with the proposed revisions provide sufficient guidance on the use of volunteers in a program. |
| 130. HFS 46.05(1) | Opposes requirement that staff be mentally and emotionally capable because it is too vague. (46) | No change. The Department believes it important to ensure that child care center caregivers are capable of adequately caring for children. |
| 131. HFS 46.05 Table 46.05 - C | Clarify whether completion of a child care apprentice program meets the qualifications for a child care teacher. (21, 22, 23) | The Department agrees and has added an additional way of meeting entry-level training requirements by completion of an approved child care apprenticeship program. |
| 132. HFS 46.05(4) | Change the staff to child ratios for children under age 2 years in the Group Child Care Rules. (64) | The Department believes that the existing staff-to-child ratios in s. HFS 46.05(4) are appropriate as currently stated in Table 46.05-D. |

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| <p>133. HFS 46.05(1)(j)3.</p> | <p>Add HFS 145 as an appendix to HFS 46. (46)</p> | <p>No change. HFS 145 is readily available from other sources and need not be repeated in this rule.</p> |
| <p>134. HFS 46.05(2)(c)6.</p> | <p>Opposes requirement for a current certificate for completion of CPR training within 6 months of starting to work with children in group child care centers. (21, 22, 23, 91)</p> | <p>No change. The Department believes that it is reasonable to require CPR training within 6 months of beginning to work with children. The Department is working with various agencies to develop and distribute CPR instruction in a variety of methods to facilitate this effort.</p> |
| <p>135. HFS 46.06(2)(k)</p> | <p>Delete requirements related to hot tubs in a group child care center. (21, 22, 23)</p> | <p>No change. The Department believes there may be circumstances when there are hot tubs on the premises of a group child care center and therefore this rule is necessary to protect children in these settings.</p> |
| <p>136. HFS 46.06(9)(f)</p> | <p>Clarify requirements that require all frozen foods be thawed as directed. (104)</p> | <p>The Department agrees and has modified the rule to say that <i>potentially hazardous</i> food should be thawed as directed.</p> |
| <p>137. HFS 46.06(9)(f)</p> | <p>Clarify how long previously prepared food can be frozen before thawing and serving. (10)</p> | <p>No change. Different foods maintain their nutritional value at varying times after freezing.</p> |
| <p>138. HFS 46.06(10)(b)</p> | <p>Clarify whether urinals can be counted in place of toilets required under the rules. (46)</p> | <p>No change. The Department believes the rule is clear as written.</p> |
| <p>139. HFS 46.06(11)(b)5. And 9.</p> | <p>Items #5 and #9 in this section relating to energy absorbing surfaces on playgrounds appear to be identical in the rule. (21, 22, 23)</p> | <p>The Department agrees and has corrected the error.</p> |
| <p>140. HFS 46.06(11)(b)5.</p> | <p>Opposes requiring 9 inches of energy absorbing material under climbing equipment on playgrounds. (118)</p> | <p>The Department did not choose to eliminate this existing requirement because the Department believed that doing so would result in a reduction in children's safety requirements and place children at risk contrary to the mandate of the minimum requirements of the rules to protect and promote the health, safety and welfare of children in care.</p> |
| <p>141. HFS 46.07(6)(k)5.</p> | <p>Clarify whether centers can develop and use their own child enrollment form or whether they must use a form provided by the Department. (21, 22, 23)</p> | <p>Subdivision 5. specifies that the Department's form must be used, and the Department has amended the note following subdivision 5. to indicate that only the reverse side of the CFS 62 and 62A form must be completed.</p> |
| <p>142. HFS 46.07(6)(f)2.</p> | <p>Extend the timeline for review of authorizations for the application of insect repellent and sunscreen to 6 months. (46)</p> | <p>The Department agrees and has modified the rule to increase the length of time between reviews from three months to six months.</p> |
| <p>143. HFS</p> | <p>Clarify whether licensed contract motor carriers need to</p> | <p>The Department agrees and has modified the rule to indicate that all</p> |

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| 46.08(7)(a) | be in safe driving condition. This rule appears to indicate they do not need to be. (46) | center provider vehicles must be in safe driving conditions. The Department is adding language that says that licensed contract motor carrier vehicles must comply with applicable standards for those vehicles. |
| 144. HFS 46.08(7)(b) | Clarify whether parent owned vehicles used to transport children must have first aid kits. (46) | No change. The definition of a center provided vehicle exempts parent owned vehicles from this requirement. |
| 145. HFS 46.09(1)(f) | Clarify when a building inspection report authorizing children under 2 to receive care on a floor other than the first or ground level is required. (6) | No change. The Department believes the rule is clear as written. |

**PROPOSED ORDER OF THE DEPARTMENT OF
HEALTH AND FAMILY SERVICES REPEALING, RENUMBERING,
RENUMBERING AND AMENDING, AMENDING, REPEALING
AND RECREATING AND CREATING RULES**

To **repeal** HFS 46.03 (7), 46.05 (1) (c) 5. a. to i., 6. a. to f., (d) 3. a. to i., (4) (k) 2. (note) and 46.09 (3) (a) 5.; **renumber** HFS 46.05 (1) (j) 4., 46.07 (6) (f) 2. and 3., 46.09 (1) (a), 46.10 and 46.11; **renumber and amend** HFS 46.06 (11) (b) 2. b. to d. and 3. a. to d., 46.095 (1), (2) (title) and (intro), (c) and (3) (title) and (intro), (4) (title) and (a) 2. (note) and 46.10 (1) and (2) (d) as renumbered; **amend** HFS 46 (title), 46.01, 46.02 (1) (intro) and (d), 46.03 (1), (3), (6), (13), (17), (18), (19), and (34), 46.04 (2) (intro), (c), (f), (g), (i) 2. and 6., 8. (note), (m), (3) (a), (f) and (g), (6) (a) (intro), 6., (7) (intro), (8) (a), (b) (intro), 3. and (note), 46.05 (1) (b) 3. b., (c) 5. (intro), Table 46.05-A, 6. (intro), Table 46.05-B, (d) 3. (intro), Table 46.05-C, (2) (a) (intro), 3., 6. (note), 8. and 11., (4) (e) (intro) and 1., 46.06 (title), (1) (a), (2) (h) and (i), (3) (b) and (c), (6) (b) 2., (9) (b) 3. c., 4. b., (c) 1., (f) 5., (g) 1. c., (10) (a), Table 46.06 (title), (10) (b), (11) (b) 1. and 2. a., (c) 2. (intro) and e. (note), 46.07 (1) (a) (intro), (2) (b), (e) (intro), 1. and 3., (f) (note), (3) (d) (note), Table 46.07 (title), (5) (a) 4. (note), 9., (6) (d) 5. (intro), (e) 1., 2. and 3. (note), (f) 1., a. and (note) and c., (j) 9., (k) 3. (notes) and 5., 46.08 (4) (b), (5) (d), 46.09 (title) and (intro), (f), (2) (f) and (3) (a) 4.; **repeal and recreate** HFS 45 and Appendices, 46.04 (5) (a) 2. and 3., 46.05 (title) and (1) (a), (g) (note), (j) 3., (2) (c) 3. to 7., 46.06 (12), 46.07 (7), 46.08 (3), (7), 46.12, 46.13 and Appendices A to D; and **create** HFS 46.03 (3m), (4m), (8m), (10m), (11g), (11r), (14g), (14r), (18m), (22g), (22r), (26m), (29m) and (35), 46.04 (2) (h) to (L), (5) (a) 1. (note), 5. (note), (6) (a) 1. i. (note), 2. (note), 3. (note), 4. (note), 5. (note), 6m., 7. (note), (c) 2. (note), 46.05 (1) (e) 2. A. (note), (j) 1. b. (note), (2) (a) 12., (3) (g), (4) (f) (note), 46.06 (2) (k) and (L), (4) (j) (note), (6) (b) 3. and (note), (8) (g) (note), (9) (c) 3m. and (note), (11) (c) 1m., 46.07 (5) (a) 9m., (6) (f) 2., 46.08 (2) (b) 3. (note), (4) (d), 46.09 (1) (a) 6. (note), (j) to (L) and (2) (bm) and 46.095 (3) (dm), relating to family and group child care centers and affecting small businesses.

Statute interpreted

The rules interpret s. 48.67, Stats.

Statutory authority

The Department's authority to repeal, renumber, renumber and amend, amend, repeal and recreate and create these rules is found in s. 48.67, Stats.

Explanation of agency authority

Section 48.67, Stats., authorizes the Department to promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of day care centers. The rules are to be for the express purpose of protecting and promoting the health, safety, and welfare of the children in the care of all licensees. The statute also directs the Department, in establishing the minimum requirements for the issuance of licenses to day care centers that provide care and supervision for children under one year of age, to include a requirement that all licensees who are individuals and all employees and volunteers of a licensee who provide care and supervision for children receive, before the date on which the license is issued or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome.

Related statutes or rules

Plain language analysis

The Department's administrative rules governing the licensing of day care centers are chapters HFS 45 and 46. Chapter HFS 45 applies to day care centers that care for between four and eight children under age seven. The Department currently refers to these centers as "family day care centers." Chapter HFS 46 applies to day care centers that care for nine or more children under age seven. The Department currently refers to these centers as "group day care centers."

With minor exceptions, the Department has not revised ch. HFS 45 since 1989. Since then, several events have suggested or required its modification.

1. In 1997, the Department created ch. HFS 46. Chapters HFS 45 and 46 address similar topics and should, but currently do not always, contain comparable requirements, including those related to definitions, licensing procedures and enforcement actions. Therefore, one purpose of this rulemaking order is to unify the treatment of a variety of subjects across the chapters.
2. Since 1989, a variety of child safety practices standards have changed and become generally accepted. For example, cardiopulmonary resuscitation training for childcare providers has become standardized. The Department's proposed rules for both chapters HFS 45 and 46 reflect these practices.
3. Pertinent statutory changes over the past five years relating to caregiver background checks under s. 48.685, Stats., and prohibitions on smoking under s. 101.123 (2) (bm), Stats., are reflected in the rules. In addition, 2001 Wisconsin Act 16 amended s. 48.67, Stats., to require that all child care centers licensed to care for children under age one must receive training in the most recent medically accepted practice to reduce the risk of Sudden Infant Death Syndrome. The proposed rules describe the needed training.
4. The proposed rules reflect changes in the ways the Department issues a license and create provisions that would allow the Department to bar consideration of an application if the applicant has had a previous license revoked or application denied for a substantive reason.
5. The Department proposes to change the term "day care center" to the more descriptive term "child care center."

Given the preceding events, the Department is proposing the following changes to ch. HFS 45, Family Child Care Centers:

1. Consolidating and expanding all definitions referred to throughout the chapter [HFS 45.03 (1) to (37).]
2. Adding a requirement for orientation of any employees, substitutes and emergency back-up providers [HFS 45.04 (2) (f).]
3. Expanding and consolidating the types of things that a licensee must report to the department [HFS 45.04 (3).]
4. Consolidating the requirements for staff records and add establishing requirements for maintaining records for employees and substitutes [HFS 45.05 (2).]
5. Increasing the specificity regarding the nature of the medical log book [HFS 45.04 (5) (c).]
6. Referencing centers licensed to care for children under age 2 to HFS 45.09 (1) (b) for training requirements and requiring CPR certification for all persons providing care to children [HFS 45.05 (1) (b).]
7. Requiring substitutes to meet training requirements [HFS 45.05 (1) (b) 2.]

8. Extending provider qualification requirements to volunteers [HFS 45.05 (1) (c).]
9. Adding requirements related to orientation [HFS 45.05 (2).]
10. Adding requirements for sight and sound supervision of children while eating and when children under age 5 are outside [HFS 45.05 (3) (i) and (j).]
11. Clarifying that child care centers that are not located in a one or two-family dwelling must conform with Commercial Building Codes [HFS 45.06 (1).]
12. Lowering the maximum inside temperature a center may have from 90 to 80 degrees before a fan or air conditioner is activated [HFS 45.06 (2) (c).]
13. Adding prohibitions on smoking and hot tub accessibility [HFS 45.06 (3) (h) to (i).]
14. Requiring that wooden structures that are constructed of CCA treated lumber be sealed every two years [HFS 45.06 (12) (b) 3.]
15. Adding restrictions to the accessibility of swimming pools located on site and establishing regulations that apply when children in care use swimming pools away from the center [HFS 45.06 (12).]
16. Requiring centers to make available weekly written menus for review by parents and department representatives [HFS 45.07 (5) (d).]
17. Adding provisions for the care of mildly ill children [HFS 45.07 (6) (d).]
18. Adding requirements related to pets [HFS 45.07 (7).]
19. Requiring that any person working in a center licensed to care for children under age two complete SIDS training before beginning to work. The training can either be the entry level training required under s. HFS 45.05 (1) (b) or the completion of at least 10 hours of training in infant and toddler care [HFS 45.09 (1) (b).]
20. Establishing requirements for safe sleep practices [HFS 45.09 (1) (c).]
21. Requiring a physician authorization to place an infant to sleep in a position other than the child's back [HFS 45.09 (2) (c).]
22. New requirements regarding night care of children [HFS 45.10.]
23. Revising the administration of family child care licensing to clarify procedures for obtaining and continuing a license [HFS 45.11.]
24. Establishing a new section on complaints, inspections and enforcement actions [HFS 45.12.]

The Department is also proposing the following changes to ch. HFS 46, Group Child Care Centers:

1. Modifying and consolidating all definition of terms referred to in the rule [HFS 46.03.]
2. Expanding the list of situations that must be reported to the department [HFS 46.04 (3).]
3. Eliminating duplicative information about entry level training requirements [HFS 46.05 (1).]
4. Expanding the required components of orientation to include contingency plans, the center procedure for sharing information about a child's special health care needs and the center's SIDS risk reduction procedures [HFS 46.05 (2) (a) 3., 11. and 12.]
5. Establishing requirements if a hot tub is located on the premises of a center [HFS 46.06 (2) (k) and (L).]
6. Adding restrictions about the use of swimming pools on the premises of a center [HFS 46.06 (12).]
7. Establishing requirements if pets are on the premises [HFS 46.07 (7).]
8. Revising the administration of group child care licensing to clarify procedures for obtaining and continuing a license [HFS 46.11.]

Summary of, and comparison with, existing or proposed federal regulation

The Department knows of no federal regulations that apply specifically to child care centers.

Comparison with rules in adjacent states

Minnesota – Licensing rules for Minnesota can be found in Minnesota: Chapter 9502 Licensing of day Care Facilities (4/1/95) and Chapter 9503 Child Care Centers (9/25/98). Family day care is defined in chapter 9502 as “day care for no more than ten children at one time of which no more than six are under school age. The licensed capacity must include all children of any caregiver when the children are present in the residence.”

A child care center is defined as a facility in which a child care program is operated when the facility is not excluded by Minnesota Statutes, section 245A.03, subdivision 2, and is not required to be licensed under parts 9502.0315 to 9502.0445 as a family or group family day care home. Generally these types of facilities care for 15 or more children.

Minnesota has an intermediate category of care called “Group Family Day Care” that is located in a provider’s residence and cares for no more than 14 children. Wisconsin does not have a similar category of care.

In Minnesota, Family Child Care is required to be in a provider’s residence and the rules are generally consistent with Wisconsin’s rules. Many of the licensing rules contained in this document have already been incorporated into Minnesota’s family day care center rules. The child care center rules in Minnesota are consistent with Wisconsin’s rules.

Iowa – Iowa’s licensing rules for child care home and centers can be found in chapter 110 for Child Development Homes (12/1/03) and chapter 109 for Child Care Centers (12/1/03). In Iowa, a Child Development Home is defined as “a person or program registered under this chapter that may provide child care to six or more children at any one time.” The care takes place in the residence of the provider. A Child Care Center is defined as a facility providing child day care for seven or more children, except when the facility is registered as a child development home. For the purposes of this chapter, the word “center” shall apply to a child care center or preschool, unless otherwise specified.

Child Development Homes can be in one of three categories (A, B, or C) depending on the number of children who are not enrolled in a school are present and the number of children under age 2. If a Child Development Home is a category C home, there may be up to 12 children in care with 2 child care providers present. In a Child Development Home, the provider self certifies that she or he meets the licensing requirements and a sampling of homes receives a monitoring visit during the licensing cycle. The licensing rules for Child Development Homes is generally less restrictive than for licensed family child care centers in Wisconsin.

When more than 6 children who are not enrolled in school receive care somewhere other than the providers home, the facility must meet the regulations for a child care center. Licensing rules for child care centers are generally less restrictive than for licensed group child care centers in Wisconsin, except in the area of staff to child ratio which is somewhat more restrictive.

Illinois – Illinois licensing rules for day care homes can be found in part 406 Licensing Standards for Day Care Homes (12/15/03). Licensing rules for day care centers can be found in part 407 Licensing Standards for Day Care Centers (2/15/04). Day care homes are defined as family homes that receive more than 3, but no more than a maximum of 12, children for less than 24 hours per day. The maximum of 12 children includes the family’s natural, foster, or adopted children and all other persons under the age of 12. The term does not include facilities that receive only children from a single household. A day care center is defined as any child care facility that regularly provides day care for less than 24 hours per day for more than 8 children in a family home or more than 3 children in a facility other than a family home, including senior citizen buildings. Illinois also has a category of care called group day care homes, which are defined as a

family home which receives more than 3 and up to 16 children for less than 24 hours per day. The number counted includes the family's natural, foster, or adopted children and all other persons under the age of 12. Wisconsin has no category of care that corresponds to group day care homes in Illinois.

Wisconsin's rules for family child care centers are generally consistent with the rules for day care homes. In fact, many of the family child care rules included in this proposed draft have already been incorporated into Illinois licensing rules. The group child care center rules in Wisconsin are generally consistent with the day care center rules in Illinois.

Michigan – Michigan defines a family day care home as a private home in which at least one, but fewer than 7, minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian. A group day care home is defined as a private home in which more than 6, but not more than 12, minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian. A day care center, in Michigan, means a facility, other than a private residence, receiving one or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. The definitions for day care facilities are found in Child Care Organizations Act 116 of 1973. Licensing rules for family and group day care homes are found in Michigan Rules for Family and Group Day Care Homes (4-20-99) and the center rules are found in Child Day Care Licensing – Child Care Centers (7/30/03).

Michigan's rules for licensing family day care homes and day care centers are generally less restrictive than Wisconsin's licensing rules in most areas.

Summary of factual data and analytical methodologies

Pursuant to s. 48.67, Stats., in developing these rules, the Department consulted the Department of Workforce Development's Child Care Section, the agency responsible for developing ch. DWD 55, rules for certified child care homes, the Department of Commerce's Division of Safety and Buildings, the Department of Public Instruction's Community Nutrition Programs Section, the agency responsible for the administration of the USDA Child and Adult Care Food Program in Wisconsin, and the Department's Division of Public Health on regulations related to food preparation and service, communicable disease and immunizations, and health practices. The Department also consulted the American Academy of Pediatrics and the American Public Health Association's Caring for Our Children: National Health and Safety Performance Standards for Children in Out-of-Home Care, second edition, in the development of these rules.

Analysis and supporting documents used to determine effect on small business

The revision of HFS 45 will affect family child care centers licensed to care for up to 8 children. The revisions to HFS 46 will affect group child care centers licensed to care for 9 or more children. As of June 2003, there were 3,111 licensed family child care centers and 2,399 licensed group child care centers. Most of these entities are "small businesses" as the term is defined under s. 227.114 (1) (a), Stats. All programs affected by the proposed changes to the administrative code will receive a mailing from the Department indicating the dates, times and locations of scheduled public hearings as well as instructions on how to obtain a copy of the proposed revisions and the procedure to make oral or written comments regarding the revisions.

The proposed revisions to the rules expand the list of items that must be reported to the Department within a specified time frame. The reports required in the rule revision are a means by which the Department obtains information about situations occurring at a child care center or that

affect children enrolled at a center which have the potential to affect the health, safety or welfare of the children enrolled in the program. These new reporting requirements are being proposed for the purpose of protecting the children in care. Therefore, the Department has not proposed specific exemptions from these reporting requirements.

The Department is also proposing rule revisions that will bring HFS 45 into alignment with HFS 46 and will reflect current best practices in early childhood education and care. The Department has included provisions in the rule revisions that allow individual programs to request an exception to any given rule provided a alternative plan for protecting the health, safety and welfare of children in care is also included with the request. These exception requests are evaluated and approved on an individual basis.

Anticipated costs incurred by private sector

The Department anticipates that there will be some minor costs incurred by child care centers when these rules are implemented. For example, all persons working with children will be required to have a current certificate of completion for Infant/Child Cardiopulmonary Resuscitation (CPR). Costs are anticipated to range from \$10 to \$30 per person each time the training is needed. Certificates are valid for periods from one to five years depending on the agency providing the training. The Department did not specify a specific agency that must provide the training to allow centers to choose the type of training program desired. Under the proposed revisions, family child care licensees who allow cats and dogs to have unrestrained access to the children in care would be required to provide specific liability insurance pertaining to pets. In other words, the liability insurance certificate from the insurance agent will need to specify that the center is covered for cats or dogs. Those family child care licensees who do not allow pets to have unrestrained access to the children would not be required to have this coverage. The Department is not able to determine how many centers may be affected by this regulation but estimates the cost of such liability insurance could range from \$50 to \$250 per year depending on the type of insurance coverage obtained and the limits of the policy. Group child care licensees are already required to have liability insurance and additional costs for coverage of unrestrained pets should be negligible. The Department does not anticipate any other costs to licensees under these proposed revisions.

Effect on small business

These proposed rule changes will have an effect on small business insofar as most of the entities subject to chs. HFS 45 and 46 are small businesses. However, the Department has determined that exempting groups of entities from compliance with HFS 45 or 46 would compromise the health and safety of the children in the care of those entities and would be contrary to the goal expressed in s. 48.67, Stats., that the Department's rules protect and promote the health, safety and welfare of the children in the care of all licensees.

Agency contact person

Anne Carmody; 608-267-9761; carmoaw@dhfs.state.wi.us

Place where comments are to be submitted and deadline for submission

The comment period for these rules is over. Hearings were held on these proposed rules in 2003.

Rule text

SECTION 1. Chapter HFS 45 and Appendices are repealed and recreated to read:

Chapter HFS 45

Family Child Care Centers

| | |
|------------------|-------------------------------------------------------------|
| HFS 45.01 | Authority and purpose. |
| HFS 45.02 | Applicability. |
| HFS 45.03 | Definitions. |
| HFS 45.04 | Operational requirements. |
| HFS 45.05 | Staffing. |
| HFS 45.06 | Physical plant and equipment. |
| HFS 45.07 | Program. |
| HFS 45.08 | Transportation. |
| HFS 45.09 | Additional requirements for infant and toddler care. |
| HFS 45.10 | Additional requirements for night care. |
| HFS 45.11 | Licensing administration. |
| HFS 45.12 | Complaints, inspections and enforcement actions. |

HFS 45.01 Authority and purpose. This chapter is promulgated under the authority of s. 48.67, Stats., to carry out licensing requirements under s. 48.65, Stats., for family child care centers. The purpose of the chapter is to protect the health, safety and welfare of children being cared for in family child care centers.

HFS 45.02 Applicability. (1) INCLUDED AND EXCLUDED CARE ARRANGEMENTS. This chapter applies to all family child care centers, but does not include any of the following:

- (a) Care and supervision of children in a program that operates no more than 4 hours a week.
- (b) Group lessons to develop a talent or skill, such as dance or music, social group meetings and activities and group athletic activities.
- (c) Care and supervision while the parents are on the premises and are engaged in shopping, recreation or other non-work activities.
- (d) Seasonal programs of 10 days or less duration in any 3-month period, including day camps, vacation bible school and holiday child care programs.
- (e) Care and supervision in emergency situations.
- (f) Care and supervision while the parent is employed on the premises if the parent's child receives care and supervision for no more than 3 hours a day.
- (g) Care and supervision provided at the site to the child of a recipient of temporary assistance to needy families, or Wisconsin works, who is involved in orientation, enrollment or initial assessment prior to the development of an employability plan or the child care is provided where parents are provided training or counseling.

(2) **EXCEPTION TO REQUIREMENT.** The department may grant an exception to a requirement of this chapter when a family child care center demonstrates 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 pertinent provision in this chapter.

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

HFS 45.03 Definitions. In this chapter:

(1) "Care" means providing for the safety and the developmental needs of a child in a family child care center.

(2) "Caregiver background check" means the retrieval of information about an individual's past criminal conduct pursuant to s. 48.685, Stats., and ch. HFS 12 that may bear on the suitability of that individual to assume a child caregiving role or have regular contact with children at the center.

(3) "Center-provided transportation" means transportation in a vehicle owned by or contracted for the center or a vehicle owned by the licensee or an employee that is used to transport children, but does not include a vehicle owned and driven by a parent or volunteer.

(4) "Complaint" means an allegation of violation of this chapter or ch. 48, Stats.

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

(6) "Emergency" means any of the following situations: fire; tornado; flood; loss of building service including, no heat, water, electricity, or telephone; extreme outdoor heat or cold; threats to the building or its occupants; lost or missing children; or a medical or family situation requiring immediate attention.

(7) "Emergency back-up provider" means a designated adult available within 5 minutes of the premises who can provide assistance in the event an emergency occurs that requires a provider to leave the premises occasionally for a short period of time.

(8) "Employee" means any adult who is compensated to provide care and supervision of children enrolled in a family child care center, including a helper or assistant to a child care provider.

(9) "Family child care center" or "center" means a facility where a person provides care and supervision for less than 24 hours a day for at least 4 and not more than 8 children who are not related to the provider.

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

(11) "Fit and qualified" means displaying the capacity to successfully nurture and care for children and shall not include any of the following:

(a) Abuse of alcohol or drugs.

(b) A history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children, as described in ch. HFS 12.

(c) Exercise of unsound judgment.

(12) "Foster care" means care and maintenance provided to a child in a foster home pursuant to a court order or voluntary placement agreement.

(13) "Foster home" means any facility that is operated by a person required to be licensed under s. 48.62 (1) (a), Stats., and that provides care and maintenance for no more than 4 foster children, or, if necessary to keep siblings together, for no more than 6 foster children.

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

(15) "Inclement weather" means stormy or severe weather such as any of the following:

(a) Heavy rain.

(b) Temperatures above 90° F.

(c) Wind chills of 0° F. or below for children age 2 and above.

(d) Wind chills of 20° F. for children under age 2.

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

(17) "In care" means enrolled in the center, with the center providing supervision, either on or off the premises, for the safety and the developmental needs of the child or children.

(18) "Licensee" means the individual, corporation, partnership or non-incorporated association or cooperative that has legal and financial responsibility for the operation of a center and for meeting the requirements of this chapter.

(19) "Licensing representative" means a department employee responsible for licensing family child care centers.

(20) "Mildly ill" means a child who has a common, temporary illness that is non-progressive in nature and is not listed on the communicable disease chart in appendix A of ch. HFS 145.

(21) "Night care" means any care that is offered by a licensed family child care center between 9:00 PM and 5:00 AM.

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

(23) "Physical restraint" means the use of physical force to restrict the free movement of all or a portion of a child's body.

(24) "Physician" has the meaning given in s. 448.01 (5), Stats.

(25) "Physician assistant" has the meaning given in s. 448.01 (6), Stats.

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

(27) "Provider" means an adult in a family child care center who provides care and supervision of the children in the care of the center.

(28) "Provider's own children" means a provider's natural or adopted children, foster children or stepchildren.

(29) "Representative of the department" means a department employee or a representative from an agency the department contracts with to provide pre-licensing services.

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

(31) "Sleeping bag" means a padded fabric bag that is closed or capable of being closed on 3 sides.

(32) "Substitute" means a provider who replaces another provider on a pre-arranged basis.

(33) "Sudden infant death syndrome" or "SIDS" means the sudden death of an infant under one year of age that remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene and a review of the clinical history.

(34) "Supervision" means guidance of the behavior and activities of children while awake and asleep for their health, safety and well-being by a provider who is within sight or sound of the children except as specified in s. HFS 45.07 (7) (e).

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

(36) "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 service's centers for disease control and adopted by the U.S. occupational safety and health administration (OSHA) as 29 CFR 1910.1030.

Note: Universal precautions are sometimes referred to as "standard precautions". For information on the OSHA requirements related to universal/standard precautions, call 1-800-356-4674.

(37) "Volunteer" means a person who agrees to give time, without compensation, to transport children attending a family child care center or to work with children in a family child care center.

(38) "Wading pool" means a shallow pool, with sides of 15 inches or less in height, capable of being dumped to change water and used primarily for small children.

HFS 45.04 Operational requirements. (1) TERMS OF LICENSE. (a) The number of children in the care of a family child care center at any 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 issued.

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

(2) ADMINISTRATION. A licensee shall do all of the following:

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

(b) Comply with all requirements in this chapter.

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

(d) Prior to receiving or continuing a license, complete all application forms and pay all fees and forfeitures due to the department.

Note: The Department will provide an application after a Department representative completes the provision of pre-licensing technical assistance.

(e) Develop, submit to the department for approval, implement and provide to the parents written policies and procedures related to all of the following:

1. Enrollment and discharge of enrolled children.

2. Fee payment and refunds.

3. Child and provider absences.

4. Children's and staff's health care, including those policies and procedures pertaining to SIDS risk reduction, if the center is licensed to care for children under one year of age.

5. Nutrition.

6. Daily activities of the children.

7. Child guidance.

8. Transportation of children.

9. Religious instruction or practices, if any.

10. Information related to the numbers, types and location of pets or other animals located on the premises of the center and the type of access the children will have to the pets.

Note: Under the state public accommodation law, s. 106.04, Stats., federal law 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.

(f) Develop, submit to the department for approval and implement a written orientation plan for any employees, substitutes and emergency back-up providers. The orientation plan shall cover all the items described in s. HFS 45.05 (2) (a).

Note: See s. HFS 45.05 (2) (a) and (b) regarding providing an orientation to employees, substitutes and emergency back-up providers.

(g) Provide written information to parents on whether a licensee has insurance coverage on the premises, on the child care operation and on vehicles when transportation is provided. Liability insurance is required if cats or dogs are allowed in areas accessible to children during the hours of operation as specified in s. HFS 45.07 (7) (h).

(h) Display the child care license in a location where parents can see it during the hours of operation.

(i) Post next to the child care license the results of the most recent licensing inspection, any notice of enforcement action and any stipulations, conditions, exceptions or exemptions that affect the license. Items posted shall be visible to parents.

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

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

(3) REPORTS. The licensee shall report to the department all of the following:

(a) Any death of a child in care or accident that results in an injury that requires professional medical treatment while the child is in the care of the center, within 48 hours after the occurrence.

Note: The licensee may use either the Department's form CFS-0055, Child Care Accident/Death Report, listed in Appendix E, or the licensee's own form to report accidents and deaths.

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

(c) Any construction or remodeling that affects the premises of a center prior to the beginning of the construction or remodeling. If the construction or remodeling has the potential to affect the locations on the premises where children are served or a condition of the license, the construction or remodeling shall receive written approval by the department before the construction or remodeling begins.

Note: See s. HFS 45.11 (6) (a) for items that affect a condition of the license.

(d) If requested by the department, a plan of correction for cited violations of this chapter or ch 48, Stats., in a format specified by the department. The department shall receive the plan of

correction by the date the department specifies and be approved by the department licensing representative.

Note: The licensing representative will notify the licensee that a plan of correction will be required and will provide the plan of correction format with the notification.

(e) Any known convictions, pending charges or other offenses of the licensee, a provider, household members or other persons subject to a caregiver background check which could potentially relate to the care of children at the center or activities of the center.

(f) Any incident related to a child who leaves the premises of the center without the knowledge of a provider or any incident that results in a provider not knowing the whereabouts of a child in attendance at the center within 24 hours of the incident.

(g) Any incident involving law enforcement that occurs on the premises or involves a person on the premises within 24 hours after the incident.

(h) Any change in room usage, such as changing the way rooms are used by children or using rooms not previously approved for use at least 20 working days prior to the change. Changes in room usage shall be approved by the department prior to the change.

(i) Any suspected abuse or neglect of a child by a provider, volunteer or household member that was reported under sub. (8) (a) or any inappropriate discipline of a child by a provider, volunteer or household member during the child's hours of attendance within 24 hours after the incident.

Note: See also s. HFS 45.07 (2) for information on guiding children's behavior and sub. (6) (c) regarding recording injuries in a center medical log.

(j) A change of any program service, such as changes in transportation or food services at the center and seasonal closings, at least 5 calendar days prior to the change. Changes in program services shall be approved by the department.

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

Note: The Department periodically requests statistical data from licensees. An example of the type of data collected relates to the immunization status of children in care. When the Department requests statistical data, the Department will supply the appropriate form.

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

(b) The licensee shall give parents of each enrolled child a summary of this chapter.

Note: Copies of a summary of this chapter may be obtained from the Child Care Information Center by calling 1-800-362-7353.

(5) STAFF RECORDS. The licensee shall maintain a file for each provider, employee, or substitute. The file shall contain the following items:

(a) A completed staff record form provided by the department.

Note: The Department's form CFS-0053, Child Care Staff Record, is used for recording staff information. Information on how to obtain the form is in Appendix E.

(b) A completed background information disclosure form provided by the department that does not reveal any information that may preclude the person's contact with children under s. 48.685, Stats., or ch. HFS 12 prior to the first day of work and every 4 years thereafter.

Note: The Department's form HFS-64, Background Information Disclosure, is used for reporting employee background information. Information on how to obtain the form is in Appendix E.

(c) The results of the complete caregiver background check including any report of any investigation required under ch. HFS 12 within 60 days after hire and every 4 years thereafter.

Note: If the licensee is a provider, the department is responsible for collecting the completed Background Information Disclosure form and conducting the necessary caregiver background check on the licensee.

(d) Documentation of the days and hours a substitute, employee or volunteer has worked and whose time is used to meet the applicable staff to child ratio under Table 45.05.

(e) Except as provided under par. (f), a physical examination report on a form provided by the department that was completed within 12 months prior to or 30 days after the person become licensed to or began working with children. The report shall be dated and signed by a licensed physician, physician's assistant or HealthCheck provider. The report shall indicate all of the following:

1. That the person is free from illness detrimental to children, including tuberculosis.
2. That the person is physically able to work with young children.

Note: The Department's form CFS-0054, Child Care Provider Staff Health Report, is used for recording physical examination information. Information on how to obtain the form is in Appendix E.

(f) The health examination requirement under par. (e) does not apply to a provider who requests an exemption from par. (e) based on the provider's adherence to religious belief in exclusive use of prayer or spiritual means for healing in accordance with a bona fide religious sect or denomination.

(g) Documentation of the entry level training required under s. HFS 45.05 (1) (b) or s. HFS 45.09 (1) (b) and any continuing education required under s. HFS 45.05 (1) (b).

Note: "The Registry" is the organization that provides professional development opportunities and awards credentials for early childhood professionals in Wisconsin. A certificate issued by the Registry may be used to document completion of entry level training. Contact the Registry at 608-222-1123 for information on how to obtain a Registry certificate.

(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 department representative on request. Each record shall include all of the following:

1. Enrollment information and health history on a form prescribed by the department. The enrollment information and health history shall be on file prior to the child's first day of attendance.

Note: The Department's form CFS-0062 or CFS-0062A, Child Care Enrollment and Health History, is used for recording enrollment and health history information. Information on how to obtain the form is in Appendix E. See s. HFS 45.07 (6) (L) 5. for information on sharing information related to a child's special health care needs.

2. Parental authorization for the child to participate in and be transported for field trips and other activities if these are part of the program.

Note: The Department's form CFS-0062, Child Care Enrollment and Health History, includes a blanket authorization to take children on field trips. The Department's form CFS-0058 or CFS-0058A, Day Care Field Trip or Other Activity Notification, or another type of notification such as a note to a parent may be used to provide specific information about a field trip. Information on how to obtain the Department's forms is in Appendix E.

3. A written agreement, signed by the parent, outlining the plan for a school-age child to come to the center from school, home and other activities and to go from the center to school, home and other activities.

Note: The licensee may use either the Department's form CFS-0104, Day Care School-Age Agreement, or the licensee's own form for securing the parent's signed agreement. Information on how to obtain the Department's form is in Appendix E.

4. Documentation of each child's immunization history and, except for a school-aged child, the most recent physical examination.

5. Written permission from the parents under s. HFS 45.07 (6) (k) for medical attention to be sought for the child if the child is injured.

6. For an infant or toddler, a current statement from the parent on a form provided by the department about the infant or toddler's habits of eating, sleeping, toileting and communication, and specific techniques that appear to comfort the child.

Note: The Department's form CFS-0061, Child Care Intake for Child Under 2 Years is used for recording the infant's or toddler's habits. Information on how to obtain the form is in Appendix E.

(b) The licensee shall maintain a written record of the daily attendance that includes the time of arrival and departure and birthdate for each child for the length of time the child is enrolled in the program.

(c) The licensee shall maintain a medical log book with pages that are lined and numbered and a stitched binding. A provider shall record in ink any injuries received by a child, evidence of unusual bruises, contusions, lacerations or burns received by a child in or out of center care or medication dispensed to a child in the medical log and sign or initial each entry. Pages may not be removed or lines skipped.

Note: Licensees may obtain information about maintaining a medical log book by contacting the Child Care Information Center at phone number 800-362-7353.

Note: See sub. (8) of this section for requirements related to reporting suspected child abuse or neglect, and s. HFS 45.07 (6) (b) 2. for information on recording in the medical log book.

(7) CONFIDENTIALITY. (a) The licensee is responsible for compliance by the center with s. 48.78, Stats., and this subsection.

(b) The licensee shall ensure that all of the following occur:

1. 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 subdivision does not apply to any of the following:

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

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

c. Agencies authorized under s. 48.78, Stats.

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

3. 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 or provider who knows or has reasonable cause to suspect that a child has been abused or neglected as defined in ss. 48.02 (1) and 48.981 (1), Stats., shall immediately contact the county department of social services or human services or local law enforcement agency in compliance with s. 48.981, Stats.

(b) The licensee shall document that each provider and substitute has received training at least every 2 years in all of the following:

1. Child abuse and neglect laws.

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

3. The procedure for ensuring that all known or suspected cases of child abuse or neglect are immediately reported to the proper authorities.

Note: Failure of the licensee to report known or suspected child abuse or neglect does not lessen the legal duty of a child care employee 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 by calling 1-800-362-7353.

Note: See sub. (6) (c) of this section for information about logging evidence of unusual bruises, contusions, lacerations or burns received by a child in or out of center care in the center medical log book.

HFS 45.05 Staffing. (1) **RESPONSIBILITIES AND QUALIFICATIONS OF STAFF.** (a) *Minimum age and competence.* A family child care provider shall be physically, mentally and emotionally able to provide responsible care for children and shall be at least 18 years of age.

(b) *Training.* 1. A provider shall have satisfactorily completed 40 hours or 3 credits of early childhood training approved by the department within 6 months after initial licensure. Additional providers required to meet staff to child ratios shall meet the training requirements within 6 months of beginning to work with children.

Note: Non-credit courses entitled *Introduction to the Child Care Profession and Fundamentals of Family Child Care*, together, meet the requirement for 40 hours of Department-approved training. Credit-based courses used to meet entry level training requirements must be at least 3 credits and be broad-based (for example, child development, child psychology or introduction to early childhood education).

2. If the center is licensed to care for children under 2 years of age, s. HFS 45.09 (1) (b) shall apply to all providers.

3. A substitute hired to meet staff to child ratios need not meet the training requirements specified in this section until the substitute has worked in the center for 240 hours.

4. A provider shall receive and document having received 15 hours of continuing education each year in child growth and development, early childhood education, or first aid, as approved by the department. This training may include attendance at training events, workshops, conferences, consultation with community resource people or observation of child care programs. Up to 5 hours of independent reading or watching educational materials may be used to meet continuing education requirements.

Note: The licensee may use either the Department's form CFS-0053A, Child Care Staff Continuing Education Record, or the licensee's own form to document the completion of continuing education. Information on how to obtain the Department's form is in Appendix E.

5. A provider shall obtain within 6 months of licensure or date of hire and maintain a current certificate of completion for infant and child cardiopulmonary resuscitation. The time spent obtaining or renewing cardiopulmonary resuscitation training may be counted towards the required continuing education hours.

(c) *Volunteers.* Volunteers used to meet staff-to-child ratios shall meet the qualifications of a provider as specified under par. (b) or s. HFS 45.09 (1) (b) following 240 hours of first date of volunteering.

(2) **STAFF DEVELOPMENT.** (a) *Orientation of employees, volunteers and substitutes.* Each employee, volunteer, or substitute shall receive an orientation before beginning work. The orientation shall be documented on a form provided by the department and kept in the employee file. The orientation shall cover all of the following:

Note: See s. HFS 45.04 (2) (f) relating to a written plan for orientation.

1. Names and ages of all the children in care.

2. Current arrival and departure information for each child enrolled including the names of people authorized to pick up the child.

3. Location of children's emergency contact information.

4. Specific information relating to children's special health care needs including medications, disabilities or special health conditions.

5. Procedures to reduce the risk of sudden infant death syndrome, if the center is licensed to care for children under one year of age.

6. An overview of the daily schedule including meals, snacks, nap and any information related to the eating and sleep schedules of infants and toddlers enrolled in the center.

7. A review of the center's procedures for dealing with emergencies.

8. The procedure for reporting suspected abuse and neglect of a child.

9. The plan for evacuating sleeping children, if the center is licensed to care for children between the hours of 9 PM and 5 AM.

Note: The Department's form CFS-2255, Family Child Care Orientation Checklist, is used to document employee information. Information on how to obtain the form is in Appendix E.

(b) *Orientation of emergency back-up providers.* Each time an emergency situation occurs, each emergency back-up provider shall receive an orientation immediately before being left alone with the children. The orientation shall cover all of the following:

Note: See s. HFS 45.04 (2) (f) relating to a written plan for orientation.

1. Names and ages of all the children in care.

2. Arrival and departure information for each child in care including the names of people authorized to pick up the child.

3. Location of children's files.

4. Procedures to reduce the risk of sudden infant death syndrome, if the center is licensed to care for children under one year of age.

(3) SUPERVISION. (a) 1. A provider may not be engaged in any other activity or occupation during the hours of operation of the center, except for daily maintenance of the home.

2. The licensee may not combine the care of children enrolled in the child care center with foster care of other non-related children or adults without the prior written approval of both licensing agencies.

(b) A provider shall be awake whenever children are in care.

(c) No individual provider may take care of children for more than 12 hours in any 24-hour period.

(d) No child may be in care for more than 12 hours in any 24-hour period.

(e) A child shall have adult supervision at all times.

(f) No person under 18 years of age may be left in sole charge of the children.

(g) The center shall have a plan approved by the department for ensuring supervision of the children in an emergency or during a provider's absence.

(h) A provider and any other adult in contact with children may not consume beverages containing alcohol or any non-prescribed controlled substance specified in ch. 961, Stats., or be under the influence of any alcohol or a non-prescribed controlled substance, during the hours of the center's operation.

(i) Each child shall be closely supervised by a provider to guide the child's behavior and activities, prevent harm and assure safety.

(j) A provider shall be outside with children and provide sight and sound supervision of the children unless the children are playing inside the enclosed outdoor area on the premises, as specified under s. 45.06 (11) (b).

(k) A child may not be released to any person who has not been previously authorized by the parent to receive the child.

(4) STAFFING AND GROUPING. (a) At no time may more than 8 children be in the care of the center. This total includes:

1. All children under 7 years of age, including a provider's own children.
2. All children 7 years of age or older who are not a provider's own children.

(b) The maximum number of children that one provider may care for is specified in Table 45.05.

TABLE 45.05
Maximum Number of Children
in Family Child Care per Provider

| Children Under 2 Years of Age | Children 2 Years of Age and Older | Maximum Number of Additional Children in First Grade Or Above In Care For Fewer Than 3 Hours a Day | Maximum Number of Children |
|-------------------------------|-----------------------------------|----------------------------------------------------------------------------------------------------|----------------------------|
| 0 | 8 | 0 | 8 |
| 1 | 7 | 0 | 8 |
| 2 | 5 | 1 | 8 |
| 3 | 2 | 3 | 8 |
| 4 | 0 | 2 | 6 |

(c) If the size of the group or the age distribution of the children exceeds the number that may be served by one provider, an additional qualified provider shall be present.

Note: For example, if there are 3 children under age 2 present at one time and 5 children between the ages of 2 years and 6 years present, a second provider is required. At no time may the maximum number of children in care exceed 8.

HFS 45.06 Physical plant and equipment. (1) BUILDING. (a) *Conformance with building codes.* Family child care centers located in other than a one or 2 family dwelling shall conform to the applicable Wisconsin commercial building codes. A copy of a building inspection report evidencing compliance with the applicable building codes shall be submitted to the department prior to the department's issuance of a license.

Note: The building inspection report should be sent to the appropriate regional office listed in Appendix A.

(b) *Space and temperature.* 1. A center shall have at least 35 square feet of usable floor space per child. This space shall be exclusive of passageways, bathrooms, lockers, storage areas, the furnace room, that part of the kitchen occupied by stationary equipment, and space occupied by furniture that is not intended for children's use.

2. The inside temperature of the center may not be less than 67° F.

3. If the inside temperature exceeds 80° F., the licensee shall provide for air circulation with fans or other means if the center is not air conditioned.

(2) PROTECTIVE MEASURES. (a) Furnaces, water heaters, steam radiators, fireplaces, wood burning stoves, electric fans, electric outlets, electric heating units and hot surfaces such as pipes shall be protected by screens or guards so that children cannot touch them.

(b) Firearms, ammunition or other potentially dangerous items located on the premises shall be kept in locked storage and may not be accessible to children.

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

(d) The center shall have at least one working telephone with a list of emergency telephone numbers, including telephone numbers for the local rescue squad, fire department, police department, law enforcement agency, poison control center and emergency medical service, posted near each telephone.

(e) The center's indoor and outdoor child care space shall be free of hazards.

(f) A motor vehicle shall be immediately available at the center at all times in case of an emergency if an ambulance or first response unit cannot arrive within 10 minutes of a phone call.

(g) Differences of elevation, including open sides of stairways, elevated platforms, walks, balconies and mezzanines shall be protected by railings at least 36 inches high and designed to prevent the passage of an object with a diameter larger than 4 inches through any openings in the railing bars.

(h) Smoking is prohibited anywhere on the premises of a center when children are present.

Note: Section HFS 45.03 (25) defines a "premise" as a building and the tract of land on which the building is located.

(i) A hot tub located in a room or area accessible to children shall have a visible, locked, rigid cover or be enclosed by a locked fence at least 4 feet tall. The lock shall be installed so that the lock is inaccessible to children.

(j) If a hot tub is located in a room or area that is not intended for use by children, access to the room or area shall be controlled through the use of a visibly locked door. The lock shall be installed so that the lock is inaccessible to children.

(k) The premises shall have no flaking or deteriorating paint on exterior or interior surfaces in areas accessible to children. Lead-based paint or other toxic finishing material may not be used on any surface on the premises.

(3) EMERGENCIES. Each center shall have a written plan for taking appropriate action in the event of a fire or tornado or other emergency. The center shall practice the fire and tornado plan with the children each month and document when the plan was practiced.

(4) FIRE PROTECTION. (a) Smoke detectors shall be installed and maintained in operating condition on each level of the center and in all areas used for nap or rest periods. All smoke detectors shall be tested monthly and a record kept of the time, date and results of the test.

Note: The licensee may use either the Department's form CFS-0460, Family Child Care Center Fire and Safety Report, or the licensee's own form to record the results of smoke detector tests. Information on how to obtain the Department's form is in Appendix E.

(b) An operable fire extinguisher with a minimum rating of 2A-10BC shall be provided for the kitchen and cooking area and inspected annually, and a provider shall know how to use it.

(c) Unvented gas, oil or kerosene space heaters are prohibited.

(d) A woodburning stove may be used only if it meets standards specified under s. COMM 23.045.

(5) SANITATION. The premises, furnishings and equipment shall be free from litter and vermin and maintained in a sanitary condition and in good repair.

(6) WATER. (a) If the center gets its water from a private well, water samples from the well shall be tested annually by a laboratory certified under ch. HFS 165 and shall be found bacteriologically safe. The laboratory report shall be available to the department upon request.

(b) If the center is licensed to care for infants under 6 months of age, the center shall have nitrate levels in the water tested annually.

(c) If water test results indicate the water is bacteriologically unsafe or has nitrate levels that exceed the recommended limits, the water shall be appropriately treated and re-tested until it is determined to be safe. Bottled water shall be used until the water is determined to be safe.

(7) EXITS, DOORS AND WINDOWS. (a) *Exits.* 1. All exits shall be clear of obstructions.

2. Each floor or level occupied by children shall have at least 2 exits.

3. Exits shall be located as far apart as practical.

4. The width of every exit door shall be at least 2 feet 6 inches.

5. The primary exit shall be a door or stairway providing unobstructed travel to the outside of the building at street or ground level.

6. The secondary exit shall be one of the following:

a. A door or stairway that provides unobstructed travel to the outside of the building at street or ground level.

b. A door or stairway leading to a platform or roof with railings complying with sub. (2) (g), which has an area of at least 25 square feet, is at least 4 feet long, and is not more than 15 feet above ground level.

c. A window that is not more than 46 inches above the floor, capable of being opened from the inside without the use of tool or removal of a sash, and which has a nominal window opening size of at least 20 inches in width and 24 inches in height.

7. If care is provided in a basement, all of the following apply:

a. The primary exit shall be a door or stairway that provides unobstructed travel to the outside of the building at street or ground level.

b. The secondary exit shall be either a door or stairway leading to the ground level or a window not more than 46 inches above the floor that is capable of being opened from the inside without the use of tool or removal of a sash, and which has a nominal window opening size of at least 20 inches in width and 24 inches in height. The window shall open directly to the ground or to a window well with an area of at least 6 square feet that is not more than 46 inches below the ground.

8. Two children under 24 months of age may be cared for on a level that is more than 6 feet up or down from the ground level if the center is equipped with an interconnected smoke detection system in operating condition.

(b) *Doors and windows.* 1. Every closet door latch shall be capable of being opened by children from inside the closet.

2. Every toilet room door lock shall be designed to permit the locked door be opened from the outside in an emergency, and the opening device shall be readily accessible to a provider.

3. Windows that are capable of being opened and located in areas of the center that are accessible to children shall have screens.

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

(b) The furnishings shall include all of the following:

1. Table space and seating for each child.

2. Storage space for equipment, cots, if used, bedding, children's clothing and personal belongings.

3. A safe, washable cot, bed, 2-inch thick mat or sleeping bag for each child one year of age or older who naps or sleeps.

4. A safe, washable crib or playpen for each child under one year of age who naps or sleeps.

Note: See Appendix D for information related to safe cribs.

(9) KITCHENS. (a) Equipment and utensils for preparing, serving and storing food shall be clean and equipped for the safe handling of food. Eating surfaces shall be washed before use.

(b) Reusable eating and drinking utensils shall be thoroughly cleaned with detergent and hot water and rinsed after use. Single use articles such as food containers designed to be used only once and discarded including plastic silverware, paper or styrofoam cups and plates may not be reused.

(c) Food shall be clean, wholesome, free from spoilage and from adulteration and misbranding, and safe for human consumption.

(d) Food shall be covered and stored at temperatures that protect against spoilage. Refrigerators shall be maintained at 40° F. or lower and freezers shall be maintained at 0° F. or lower.

(e) Leftovers shall be discarded after 36 hours unless frozen for later use.

(10) WASHROOMS AND TOILET FACILITIES. (a) There shall be at least one toilet with plumbing and one sink with hot and cold running water available for use by the children.

(b) Soap, toilet paper and a waste paper container shall be provided in the washroom and accessible to children.

(11) OUTDOOR SPACE. (a) *Requirement for outdoor play space.* A center shall have outdoor play space if any child is receiving care for more than 3 hours a day.

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

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

2. There shall be at least 75 square feet of outdoor play space for each child using the space at a given time.

3. The outdoor play space shall be well-drained and shall be free of hazards. Structures such as playground equipment, railings, decks and porches accessible to children and built with CCA-treated lumber shall be sealed with an oil-based sealant or stain.

4. A permanent enclosure not less than 4 feet high shall be provided where there are hazards nearby, including traffic or bodies of water, which present a threat to the safety of children in care.

5. Concrete and asphalt are prohibited under climbing equipment, swings and slides.

(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. If a center has no outdoor play space available on the premises of the center, the licensee may request an exemption from the requirements under subd. 3. for the center's outdoor play space.

3. A request for an exemption under subd. 2. shall be in writing and shall be accompanied by a plan for outdoor play space that does all 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 45.05.

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. 4. to 7.

Note: Send the request for an exemption, including the plan for the use of that space, to the licensing representative at the appropriate regional office of the Department's Division of Children and Family Services. See Appendix A for addresses of the regional offices.

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

5. There shall be at least 75 square feet of play space for each child using the space at a given time.

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

7. 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.

8. 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 under par. (b), the department shall either approve the plan and grant the exemption or not approve the plan and 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.

9. 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, 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) Swimming pools on the premises of the center may not be used by children in care. Swimming pools on the premises shall be surrounded by a permanent enclosure as specified under sub. (11) (b) 4. In addition, the all of the following restrictions apply:

1. If access to the pool is through a gate, the gate shall be closed and locked during the center's hours of operation.

2. If access to the pool is through a door, the door shall be closed, visibly locked and equipped with an alarm at the door that signals when someone has entered the pool area. The door may not be used as an exit.

3. Locks shall be located so that the locks cannot be opened by the children.

4. The free-standing wall of an above ground pool may not serve as an enclosure unless it is at least 4 feet in height and not climbable. If a ladder is present, the ladder shall be removed or raised up so that it is inaccessible to children.

5. The area around the pool enclosure shall be free of toys or equipment that would allow a child to climb or otherwise gain access to the pool.

(b) Wading pools may be used if the water is changed daily and the pool is disinfected daily.

(c) A swimming pool or beach that is not located on center premises may be used by children, if all of the following conditions are met:

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

2. Certified lifesaving personnel are on duty.

3. While children are in the water of a pool or beach, the following staff-to-child ratios for persons who can swim are met:

a. For children under 2 years of age: 1:1.

b. For children 2 and 3 years of age years of age: 1:3.

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

d. For children 6 years of age and older: 1:8.

4. When a mixed age group of children are swimming, the staff-to-child ratio shall be adjusted based on to the number of children in the water and each child's age.

Note: A worksheet to help calculate the staff to child ratio for mixed aged groupings during swimming is available from the department upon request. Requests may be made to the licensing representative or regional office in Appendix A.

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

HFS 45.07 Program. (1) PROGRAM PLANNING AND SCHEDULING. (a) A provider shall plan activities so that each child may be or do all of the following:

1. Be successful and feel good about himself or herself.
2. Use and develop language.
3. Use large and small muscles.
4. Use materials and take part in activities that encourage creativity.
5. Learn new ideas and skills.
6. Participate in imaginative play.
7. Be exposed to a variety of cultures.

Note: The Wisconsin Model Early Learning Standards are voluntary standards that were designed to help centers develop programs and curriculum to help ensure that children are exposed to activities and opportunities that will prepare them for success in school and into the future. The Standards are primarily intended as guidance on developmentally appropriate expectations and are not intended to be used as a checklist to gauge a child's progress. The Standards are based on scientific research. Copies of the Wisconsin Model Early Learning Standards are available on the Wisconsin Early Childhood Collaborating Partners website at <http://www.collaboratingpartners.com/> or through the Child Care Information Center at 1-800-362-7353.

(b) A provider shall plan daily activities according to the age and developmental level of the children in care and shall include a flexible balance of all of the following:

1. Daily indoor and outdoor activities when a child is in care for more than 3 hours except that outdoor activities are not required during inclement weather or when not advisable for health reasons.
2. Active and quiet play.
3. Protection from excess fatigue and over stimulation.
4. Individual and group activities.

(c) Television, including videotapes and DVDs, may be used only to supplement the daily plan for children. No child may be required to watch television.

(2) CHILD GUIDANCE. (a) Each family child care center shall provide positive guidance and redirection for the children and shall set clearly specified limits for the children. A provider shall help each child develop self-control, self-esteem and respect for the rights of others.

(b) If a provider uses time-out periods to deal with unacceptable behavior, time-out periods may not exceed 5 minutes or be used for children under age 3. Time-out procedures shall be included in the center's written child guidance policy.

(c) Actions that are aversive, cruel or humiliating, and actions that may be psychologically, emotionally or physically painful, discomfoting, dangerous or potentially injurious are prohibited. Examples of prohibited actions include all of the following:

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

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

Note: See s. HFS 45.04 (8) for information on reporting suspected child abuse and s. HFS 45.04 (3) (i) for rules requiring that inappropriate discipline of a child be reported to the Department within 24 hours after the occurrence.

(3) EQUIPMENT (a) Safe indoor and outdoor play equipment shall be provided and shall be all of the following:

1. Scaled to the size and developmental level of the children.
2. Of sturdy construction with no sharp, rough, loose, or pointed edges, in good operating condition, and anchored when necessary.
3. Placed so as to avoid danger of accident or collision and to permit freedom of action.

(b) Various types of play equipment shall be provided to allow for large and small muscle activity, dramatic play, creative expression and intellectual stimulation.

(c) Indoor play equipment shall be provided to allow each child a choice of at least 3 activities involving equipment when all children are involved in using equipment.

(d) Outdoor play equipment shall be provided to allow each child at least one activity when all children are using equipment at the same time.

(e) Trampolines shall not be in areas accessible to children and may not be used by the children in care.

Note: Lists suggesting kinds and numbers of equipment for centers are available from the Child Care Information Center by calling 1-800-362-7353.

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

(b) A provider shall permit children who do not sleep after 30 minutes and children who wake up early to get up and shall help them to have a quiet time through the use of equipment or activities which do not disturb other children.

(c) Each child who has a nap or rest period shall be provided with a bed, cot, mat at least 2 inches thick, sleeping bag, crib or playpen which is placed at least 2 feet from the next sleeping child.

(d) Each child shall be provided with an individually identified sheet and blanket or sleeping bag that may be used only by that child until it is washed. Sleeping bags and bedding shall be stored in a sanitary manner and washed at least after every 5 uses or as soon as possible if wet or soiled.

(e) Infants shall sleep alone in cribs or playpens. Two related children may share a double bed. No more than one child may occupy a single size bed, cot, mat or sleeping bag.

Note: See also s. HFS 45.06 (8) (b) 3. and 4. which require that the cot, bed, mat, sleeping bag, crib or playpen be safe and washable.

(5) MEALS AND SNACKS. (a) Food shall be provided based on the amount of time children are present, as specified in Table 45.07.

TABLE 45.07
Meals and Snacks to be Served to Children
in Family Child Care Centers

| Time Present | Number of Meals and Snacks |
|------------------------------------|-----------------------------------|
| At least 2 ½ 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 |
| 10 or more hours | 2 meals and 2 or 3 snacks |

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

(c) Each meal and snack shall meet the U.S. department of agriculture child and adult care food program minimum meal requirements.

Note: See Appendices B and C for United States Department of Agriculture child and adult care food program minimum meal requirements. You may also contact the Department of Public Instruction Community Nutrition Services for information on the United States Department of Agriculture child and adult care food program at 608-267-9123.

(d) Accurate records of meals and snacks served to children shall be available for review by parents and the licensing representative.

(e) Enough food shall be prepared for each meal so second portions of vegetables, fruit, bread and milk are available to children.

(f) When food for a child is provided by the child's parent, the licensee shall give the parents information about the requirements for food groups and quantities specified by the U.S. department of agriculture child and adult care food program minimum meal requirements.

(g) A child enrolled in school who is in attendance at the center when a meal or snack is served shall be offered the meal or snack.

(h) A special diet based on a medical condition, excluding food allergies, but including nutrient concentrates and supplements, may be served only upon written authorization of a child's physician and upon the request of the parent.

(i) A special diet based on a food allergy may be served upon the written request of the parent.

(6) HEALTH. (a) *Contact with others who are ill.* 1. A licensee, provider, household member, employee, volunteer, visitor or parent who has symptoms of illness or of a communicable disease that may be transmitted through normal contact may not be in contact with the children in care.

2. a. A licensee, provider, household member, employee, volunteer, visitor or parent whose behavior with respect to any child, adult, animal or property, on or off the center's premises, raises reasonable concern for the safety of the children, may not be in contact with the children in care.

b. The department may require a licensee, provider, household member or other adult in 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 45.11 (2) (e) which requires a written statement from a physician or licensed mental health professional when there is reason to believe that the physical and mental health of a person may endanger children in care.

3. 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 medical tests that the person is not a carrier of the disease.

(b) *Observation of children.* 1. Each child upon arrival at the center shall be observed for symptoms of illness. For a child who appears to be ill, the licensee shall follow the procedure under par. (c).

2. A provider shall note in a medical log book any injury or evidence of unusual bruises, contusions, lacerations or burns received by a child in or out of the center and any incidents requiring the services of medical personnel.

Note: See s. HFS 45.04 (6) (c) for information on maintaining a medical log book.

(c) *Ill child.* Unless a center has been previously authorized to care for mildly ill children under sub. (d), any child who appears to be ill shall be moved to a separate room or area and shall be provided with a bed, crib or cot and a sheet and blanket or sleeping bag. The licensee shall notify the parent or emergency contact and arrange to remove the child from the center as soon as possible.

(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 is a self-contained room that is separate from children who are well.

2. The parent consents in writing.

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

4. The center follows and implements procedures in a written plan for the provision of care to mildly ill children that has been approved and signed by a licensed physician, a family nurse practitioner or a pediatric nurse practitioner, and 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.

5. 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. When it is determined that a child attending the center or a provider's own child 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 parents of all the enrolled children shall be notified.

2. A child may be readmitted to the family child care center if the child's 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: The Wisconsin Division of Public Health has developed materials that identify those communicable diseases that are required to be reported to the local public health officer. These materials also provide additional guidance on the symptoms of each disease and information on how long an infected child shall be excluded from the center. The materials include a communicable disease chart and exclusion guidelines for child care centers. Copies of the communicable disease chart or the exclusion guidelines for child care centers are available from the Child Care Information Center 800-362-7353.

(f) *Medications.* 1. A provider may give prescription or non-prescription medications to a child only under the following conditions:

a. A completed written authorization on a form provided by the department, dated and signed by the parent is on file. Authorizations that exceed the period of time specified on the label are prohibited.

Note: The Department's form CFS-0059 or CFS-0059A, Authorization to Administer Medication, is used to obtain the parent's authorization to provide medications. Information on how to obtain the form is in Appendix E.

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

c. A written record, including the name of the child, type of medication given, dosage, time, date and the initials or signature of the person administering the medication shall be made in the medical log on the same day that the medication is administered.

Note: See s. HFS 45.04 (6) (c) about maintaining a medical log book.

2. Sunscreen and insect repellent may only be applied upon the written authorization of the parent. The authorization shall include the brand and ingredient strength of the sunscreen or repellent. Authorizations shall be reviewed periodically and updated as necessary. The recording of the application of sunscreen or insect repellent is not required.

3. Medications shall be stored so that they are not accessible to children.

4. Medications requiring refrigeration shall be kept in the refrigerator in a separate, covered container clearly labeled "medications."

(g) *Personal cleanliness.* 1. A child's hands shall be washed with soap and warm running water before meals or snacks and after toileting or diapering. A child's hands and face shall be washed after meals. Persons working with children shall wash their hands with soap and warm running water before handling food and after assisting with toileting. Towels and washcloths shall be individual to each person and used only once.

2. Bodily secretions from a child shall be wiped with a disposable tissue. Whoever does the wiping shall wash his or her hands immediately.

3. All providers shall use universal precautions when exposed to blood or bodily fluids or discharges containing blood.

4. All persons exposed to blood or bodily fluids containing blood or other types of bodily discharges shall wash their hands immediately with soap and warm running water.

5. 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 warm water after removal of gloves. Gloves shall be discarded in plastic bags.

(h) *Disinfecting surfaces.* Surfaces containing bodily secretions shall be washed with soap and water and disinfected with a solution of one tablespoon bleach to one quart of water, made fresh daily, or a quaternary ammonia-based disinfectant prepared according to the label instructions, or a commercially prepared disinfectant containing bleach or a quaternary ammonia product. Hands shall be washed immediately.

(i) *Prohibition against sharing utensils.* Cups, eating utensils, or toothbrushes may not be shared.

(j) *Clothing and diaper changing.* 1. Wet or soiled clothing or diapers shall be changed promptly from an available supply of clean clothing or diapers.

2. Section HFS 45.09 (4) shall apply when a child 2 years of age or older needs attention for diapering or toileting.

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

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

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

4. The licensee shall designate a planned source of emergency medical care, such as a hospital emergency room, clinic or other constantly staffed facility and shall advise parents about that designation.

5. A daily record of injuries including the child's name, date and time of injury and a brief description of the facts surrounding the injury shall be kept in the center medical log book.

Note: See s. HFS 45.04 (6) (c) about maintaining a medical log book.

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

2. Except for a school-aged child, each child 2 years of age or older, including a provider's children in care, shall have an initial health examination not more than one year prior to nor later than 3 months after being admitted to a 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 licensed physician, physician assistant or a HealthCheck provider.

Note: The Department's form CFS-0060 or CFS-0060A, Child Health Report, is used to record health examination information. Information on how to obtain the form is in Appendix E.

4. The health examination requirement under subd. 2. does not apply if the parents of a child request in writing that the department grant an exemption based upon the parents' 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 health history for each child, including school age children and a provider's own children, completed by the parent shall be on file at the center by the child's first day of attendance. Information relating to a child's special health care needs shall be shared with any person caring

for children including emergency back-up providers and substitutes. The health history shall be recorded on a form provided by the department.

Note: The Department's form CFS-0062 or CFS-0062A, Child Enrollment and Health History form, is used to record each child's health history. Information on how to obtain the form is in Appendix E.

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

Note: The Department's form DPH-4192 or DPH-4192S, Day Care Immunization Record, is used to record immunization information. An electronic printout from the Wisconsin Immunization Registry, or other registry maintained by a health care provider may be used in place of DPH-4192 or DPH 4192S. Information on how to obtain the form is in Appendix E.

(7) PETS AND ANIMALS. (a) Animals shall be maintained in good health and appropriately immunized against rabies. Rabies vaccinations shall be documented with a current certificate from a veterinarian.

(b) Animals that pose any risk to the children shall be restricted from the indoor and outdoor areas used by children.

(c) Licensees shall ensure that parents are aware of the center. If pets and animals are allowed to roam in the center, written acknowledgement from the parents shall be obtained. If parents are not enrolled, parents shall be notified in writing prior to the enrollment.

(d) Reptiles, amphibians, ferrets, poisonous animals may not be accessible to children.

Note: Psittacine birds are hooked bill birds of the order Psittaciformes, including macaws, grays, cockatoos.

(e) All contact between pets or animals and children shall be under the supervision of a provider who is close enough to remove the child if the child shows signs of distress or aggression or the child shows inappropriate behavior.


(f) Pets, pet feeding dishes, cages and litter boxes are prohibited in any food preparation, storage or serving areas. Animal feeding dishes and litter boxes may not be placed in areas accessible to children.

(g) Indoor and outdoor areas accessible to children shall be free of pet and animal excrement.

(h) A current certificate of liability insurance issued by an insurance carrier specifically covering the presence of dogs and cats shall be on file with the pertinent regional licensing office in appendix A if dogs or cats are allowed in areas of the center accessible to children.

(i) Licensees shall ensure that the center is in compliance with all applicable local ordinances regarding the number, types and health status of pets and animals.

P. 33
(F)



HFS 45.08 Transportation. (1) **APPLICABILITY.** This subsection applies to all center-provided transportation of children in care, including both regularly scheduled transportation to and from the center and field trip transportation.

Note: The Department's form CFS-0056 Child Care Transportation Permission may be used to obtain parental consent for transportation when regularly scheduled transportation between the center and the child's residence or another location is provided. See Appendix E for information on how to obtain copies of Department forms.

(2) **EMERGENCY INFORMATION.** All of the following emergency information shall be carried in the vehicle for each child transported:

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

(b) The name, address and telephone number of the child's health care provider.

(c) Written consent from the child's parent for emergency medical treatment.

Note: The licensee must use the Department's form CFS-0062 or CFS-62A, Child Enrollment and Health History form to obtain consent of the child's parent for emergency medical treatment. Information on how to obtain the Department's form is in Appendix E.

(3) **DRIVER.** The driver of the vehicle shall be at least 18 years of age and shall hold a valid Wisconsin operator's license for the type of vehicle driven.

(4) **VEHICLE.** (a) All vehicles used to transport children shall be registered by the state of Wisconsin.

(b) Center-owned or provider-owned vehicles used to transport children shall be in safe operating condition. At 12-month intervals the licensee shall provide the department with evidence of a vehicle's safe operating condition on a form provided by the department.

Note: The Department's form CFS-0052, Vehicle Safety Inspection, is used to record evidence of the vehicle's safe operating condition. Information on how to obtain a copy of the Department's form is in Appendix E.

(5) **SEAT BELTS.** Each child under 4 years of age or 40 pounds being transported in a vehicle shall be properly seated and restrained in an individual child car safety seat. Each child not required to be transported in an individual child care safety seat and accompanying adult shall be restrained by a seat belt. Seat belts may not be shared.

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

(b) Children under age 13 years may not ride in the front seat of a vehicle. If a vehicle has a front passenger side air bag, the air bag shall be deactivated and inoperable during the time a child is a passenger in the front seat.

(c) When children are transported in a vehicle, there shall be at least one adult supervisor in addition to the driver whenever there are more than 3 children who are either under 2 years of age or who have a handicap which limits their ability to respond to an emergency.

(d) After transporting a child to his or her destination, an adult shall ensure the child is in the custody of a provider, a parent, or other adult designated by the parent. A parent of a school age child may authorize a child to enter a building unescorted.

Note: Form CFS-0056 Child Care Center Transportation Permission form may be used to designate an adult to receive a child being transported. See Appendix E for information on how to obtain a copy of this form.

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

HFS 45.09 Additional requirements for infant and toddler care. (1) **APPLICABILITY, QUALIFICATIONS AND GENERAL REQUIREMENTS.** (a) *Applicability.* Family child care centers providing care and supervision to infants and toddlers shall comply with the additional requirements of this section.

(b) *Qualifications.* 1. Prior to becoming licensed to care for children under age 2 or prior to working in a center licensed to care for children under age 2, a provider shall have at least 40 hours or 3 credits of entry level training required under s. HFS 45.05 (1) (b) or at least 10 hours of department-approved training in the care of infants and toddlers. If the training was taken prior to September 1, 2001, a provider shall document successful completion of training in SIDS risk reduction procedures.

Note: Non-credit courses entitled *Introduction to the Child Care Profession* and *Fundamentals of Family Child Care* together meet the requirement for 40 hours of department approved training. The non-credit course entitled *Fundamentals of Infant and Toddler Care* meets the requirement for 10 hours of department-approved training in the care of infants and toddlers.

2. Within 6 months of becoming licensed or working in a center licensed to care for children under age 2, a provider shall have completed both the entry level training specified under s. HFS 45.05 (1) (b) and 10 hours of department-approved training in the care of infants and toddlers.

(c) *General requirements.* 1. A provider shall use information obtained on a department-provided form for children under 2 years of age to individualize the program of care for each child. A provider and the child's parents shall periodically discuss the child's development and routines.

Note: The Department's form CFS-0061, Day Care Intake for Child Under 2 Years, is used to record information for individualizing the program of care for each child. Information on how to obtain the form is in Appendix E.

2. Cribs and playpens shall contain a tight fitting mattress and any mattress covering shall fit snugly over the mattress. Waterbeds may not be used by children under age 2.

3. Sheets or blankets used to cover the child shall be tucked tightly under the mattress and shall be kept away from the child's mouth and nose.

4. Children under one year of age may not sleep in a crib or playpen that contains soft materials such as sheepskins, pillows, fluffy blankets, bumper pads or stuffed animals.

5. Safety gates shall be provided at open stairways.

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

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

(c) Each child under one year of age shall be placed to sleep on his or her back in a crib unless otherwise specified in writing by the child's physician. The child shall be allowed to assume the position most comfortable to him or her when able to roll over unassisted.

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

(e) Throughout the day, each infant and 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.

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

(g) When a non-mobile child is awake, a provider shall change the child's body position and location in the room periodically. Non-mobile awake children shall be placed on their stomach occasionally throughout the day.

(h) Each non-walking child who can creep or crawl shall be given opportunities each day to move freely in a safe, clean, open, warm and uncluttered area.

(i) A provider shall encourage infants and toddlers to play with a wide variety of safe toys and objects.

(j) 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.

(3) FEEDING. A provider shall do all of the following:

(a) Feed each infant and toddler on the child's own feeding schedule.

(b) Ensure that food and formula brought from home is labeled with the child's name and dated, and is refrigerated if required.

(c) Ensure that formula provided by the center is of the commercial, iron-fortified type and mixed according to the manufacturer's directions.

(d) Provide formula or breast milk to all children under 12 months of age.

(e) Provide another type of milk or milk substitute only on the written direction of the child's physician.

(f) Discard leftover milk or formula after each feeding, and rinse bottles after use.

(g) Refrain from heating breast milk in a microwave oven.

(h) Offer drinking water to infants over 6 months of age and toddlers several times daily.

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

(j) Hold or place a child too young to sit in a highchair or feeding table in an infant seat during feeding. Wide-based highchairs with safety straps or feeding tables with safety straps shall be provided for children who are not developmentally able to sit at tables and chairs.

(k) Ensure that eating utensils and cups are scaled to the size and developmental level of the children.

(4) DIAPERING AND TOILETING. A provider shall do all of the following:

(a) Change wet or soiled diapers and clothing promptly.

(b) Change the 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 quart water to one tablespoon bleach, made fresh daily or a product containing quaternary ammonia prepared according to the label directions or a commercially prepared disinfectant that contains bleach or quaternary ammonia.

(c) 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.

(d) Place soiled cloth diapers in a plastic bag labeled with the name of the child and send them home daily.

(e) Place soiled disposable diapers in a plastic-lined, covered container and dispose of them daily.

(f) Wash his or her hands with soap and warm running water before and after each diapering or assistance with toileting routines.

(g) Apply lotions, powders or salves to the child during diapering only at the specific direction of a parent or the child's physician.

(h) Wash the child during diapering with a disposable towel used only once.

(i) Wash the child's hands with soap and warm running water after diapering. The hands of children under one year of age may be washed with soap and a wet fabric or paper washcloth, used once and discarded.

HFS 45.10 Additional requirements for night care. (1) APPLICABILITY. Family child care centers which operate during any period of time between 9:00 p.m. and 5:00 a.m. shall comply with the requirements of this section.

(2) GENERAL REQUIREMENTS. (a) 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.

(b) Minimum staff-child ratios and group sizes as specified in table HFS 45.05 shall be maintained during night care.

(c) 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 ascertain from a child's parent a child's typical family activities during the period the child is at the center for night care and strive to replicate those activities with the child.

(b) A center offering night care shall provide a self-contained room away from sleeping children where an awake child may 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) A provider shall develop, submit to the department for approval and implement a plan to evacuate sleeping children in an emergency. Review of the plan shall be part of orientation under s. HFS 45.05 (2).

(b) Centers operating during hours of darkness shall have emergency lighting, such as an operable flashlight, readily available to a provider.

(c) Providers shall be awake, available, within call and able to respond to the needs of the children whenever children are in care.

(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 individual to each child shall be provided for children spending the night.

(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.

HFS 45.11 Licensing administration. (1) LICENSING REQUIREMENT. If a person provides care on a regular basis to 4 or more children under the age of 7 years, that person shall be deemed to be providing care for compensation and shall be licensed.

(2) GENERAL CONDITIONS FOR APPROVAL OF LICENSE. (a) Prior to receiving or continuing a license, an applicant for a license under this chapter shall complete all application forms truthfully and accurately and pay all fees and forfeitures that are due to the department.

(b) The department may refuse to issue or continue a license if another center operated by the licensee is in substantial non-compliance with the licensing rules or has any outstanding fines or forfeitures.

(c) Persons licensed to operate a family child care center shall be responsible, mature individuals who are fit and qualified. In determining whether an applicant is fit and qualified, the department shall consider any history of civil or criminal violations or other offenses substantially related to the care of children by the applicant, owner, manager, representative, employee, center resident or other individual directly or indirectly participating in the operation of the family child care center. A determination that a person is unfit and unqualified includes substantiated findings of child abuse or neglect under ch. 48, Stats., or substantiated abuse under ch. 50, Stats., or under similar statutes in another state or territory whether or not the abuse or neglect results in a criminal charge or conviction.

(d) The department shall issue a family child care license to an applicant within 60 working days after receipt and department approval of a properly completed application, satisfactory department investigation and determination that the applicant is fit and qualified. Continued licensure requires a licensee to remain fit and qualified.

(e) 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 or any household resident of the center may 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 that certifies the condition of the individual and the possible effect of that condition on the family child care center or the children in care.

(f) The department may deny or revoke the license if the examination specified under par. (e) gives the department reasonable concern for the care of children.

(g) The department may not process an application for a license if the applicant has had a license or certification to operate a child care center revoked or denied within the last 2 years prior to the date of the application. An applicant is deemed ineligible to submit an application for a license and a person may not hire an employee within 2 years from the date an applicant employee had a child care license revoked or denied.

(3) INITIAL APPLICATION FOR A PROBATIONARY LICENSE. (a) An applicant for a license shall have obtained pre-licensing technical assistance that results in a completed initial licensing study checklist from a representative of the department prior to submitting an application for a license.

Note: 1. Information on how to obtain pre-licensing technical assistance is available from the appropriate regional office in Appendix A. The Department will provide the application form to an applicant upon completion of the pre-licensing technical assistance.
2. An initial licensing study checklist includes a list of those rules that must be met before a license can be issued. A copy of the checklist is available from a representative of the Department or the appropriate regional office in Appendix A.



(b) An applicant for a license shall submit an application at least 60 days before the date proposed for the center to begin operating.

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

1. The license fee required under s. 48.65 (3) (a), Stats.
2. A completed background information disclosure form provided by the department for the applicant and, if the center will be located in a residence, any household member aged 10 and above.
3. A statement from a representative of the department that details the results of any pre-licensing technical assistance.
4. A statement from the applicant that indicates the center is in compliance with all applicable items in this chapter.
5. Any other materials determined by the department as necessary to complete the department's licensing investigation.

(d) Upon submission of a complete application, the department shall conduct an investigation to determine whether the applicant is eligible for a license.

(e) If the department determines that the applicant is eligible for a license, the department shall issue a probationary license having a 6 month duration. A probationary license may be renewed for one 6-month period.

(f) If the department determines that an application does not comply with the applicable requirements of this chapter or the department's investigation determines that the applicant is not eligible for a license, the department may deny the application.

(g) The department shall consider a licensee who fails to submit any of the materials described in sub. (4) or (5) by the expiration date of a license to have surrendered the license and to no longer hold title to the license. The former licensee may not continue to operate the child care center.

(4) OBTAINING A REGULAR LICENSE (a) At least 30 days before the expiration date of a probationary license, an applicant for license renewal shall submit to the department the following materials:

1. A completed license application.
2. Any completed background information disclosure forms required under s. 48.685, Stats., including any applicable fees.
3. The license renewal fee under s. 48.65 (3) (a), Stats., and any forfeitures due and owing under s. 48.715 (3), Stats., or penalties under s. 48.76, Stats.
4. Any changes to center policies, if not previously submitted.

(b) If the department determines that the applicant has met the minimum requirements for a license under s. 48.67, Stats., and if the applicant has paid any applicable fees under ss. 48.65 and 48.685 (8), Stats., any forfeiture under s. 48.715 (3) (a), Stats., and any applicable penalty

under s. 48.76, Stats., the department shall issue the applicant a regular license. Regular licenses shall be reviewed and continued for a 2-year period.

(5) CONTINUING A REGULAR LICENSE. (a) A regular license shall be valid indefinitely, unless suspended or revoked by the department or surrendered by the licensee.

(b) At least 30 days before the continuation review date of the license, an applicant for license renewal shall submit to the department the following materials:

1. A completed license continuation application.
2. Any completed background information disclosure forms required under s. 48.685, Stats, including any applicable fees.
3. The license renewal fee under s. 48.65 (3) (a), Stats., and any forfeiture due and owing under s. 48.715 (3), Stats., or penalty under s. 48.76, Stats.
4. Any changes to center policies, if not previously submitted.

(c) If the department determines that the licensee has met the minimum requirements for a license under s. 48.67, Stats., has paid the applicable fees referred to in ss. 48.65 and 48.685 (8), Stats., any forfeiture under s. 48.715 (3) (a), Stats., and any penalty under s. 48.76, Stats., the department shall continue the license for an additional 2 years.

(6) AMENDING A LICENSE. (a) A licensee shall submit to the department a written request for an amendment to the license if the licensee wishes to change any of the following aspects of the license:

1. A change in the number of children served.
2. The age range of the children.
3. The hours of the center's operation.
4. The days of the week the center is in operation.
5. The months of the year the center is in operation.
6. The name of the center.

(b) A licensee may not make a change that affects a condition of the license identified under par. (a) without the prior written approval of the department.

(c) A licensee may not move the center to a new location or change ownership of the center without notifying the department at least 30 days prior to the change. A new application and license is required when a center moves or changes ownership.

Note: The Department's form CFS-0067, Family Day Care License Application, is used to apply for a new license. The Department will provide an application prior to the continuation date for a new license.

(7) **ADDITIONAL LICENSE.** A licensee applying for a license for an additional center location shall demonstrate compliance with this chapter in the operation of any existing center he or she operates and compliance with rules for any other facility licensed by the department and operated by the licensee. The licensee shall pay any fines, forfeitures or other fees due and owing under s. 48.715, Stats., or s. 48.65, Stats., on other facilities licensed by the department before the department issues an additional license.

(8) **LICENSE DENIAL OR REVOCATION.** (a) The department may deny, revoke, 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, a proposed or current employee, a volunteer or any other person having regular contact with the children is, has or has been any of the following:

1. The subject of a pending criminal charge for an action that substantially relates to the care of children or activities of the center.

2. Convicted of a felony, misdemeanor or other offense that substantially relates to the care of children or activities of the center.

3. 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. The subject of a substantiated finding of misconduct in the department's nurse aide registry under s. HFS 129.10.

5. 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. Had a child care license or certification revoked or denied within the last 5 years.

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

8. Made false statements or withheld information.

(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 as determined under sub. (2).

Note: Examples of charges and offenses the Department will consider when making a determination under this paragraph that an act substantially relates to the care of children are the following: abuse or neglect of a child; sexual assault; abuse or 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. This list is illustrative. Other types of offenses may be considered.

(c) The department shall deny or refuse to continue or revoke a license if the applicant or licensee has failed to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse or for the failure of the applicant or licensee to comply, after appropriate notices, with a subpoena or warrant issued by the department of workforce development or a county child support agency under s. 59.53(5), Stats, and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. 49.857, Stats. Notwithstanding s. 48.72, Stats., an action taken under this subsection is subject to review only as provided in the memorandum of understanding entered into under s. 49.587, Stats., and not as provided in s. 48.72, Stats.

(d) The department shall deny an application for the issuance or continuation of a license or revoke a license if the department of revenue certifies under s. 73.0301, Stats., that the applicant or licensee is liable for delinquent taxes. An action taken under this subsection is subject to review only as provided under s. 73.0301 (5), Stats., and not as provided in s. 48.72, Stats.

(9) EFFECT OF NOTICE TO DENY OR REVOKE A LICENSE. (a) 1. If the department decides under sub. (8) to deny the grant of a license or to revoke a license, the department shall notify the applicant or licensee in writing of its decision and the reasons for that decision.

2. If the department revokes a license, the effective date of the revocation shall be either immediately or 30 days after the date of the department notice in subd. 1., based on the criteria under s. 48.715 (4m) (a) and (b), Stats., unless the decision is appealed under sub. (11).

(b) Upon receipt of the notice in par. (a) and during any revocation or denial procedures that may result, a family child 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.

(10) SUMMARY SUSPENSION OF A LICENSE. (a) Under the authority of s. 227.51 (3), Stats., the department shall summarily suspend a license and close a family child care center when the department finds that the public health, safety or welfare requires emergency action and incorporates a finding to that effect into its order. A finding of a requirement for summary suspension of the license may be based on 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 employee, 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 security.

3. The licensee, an employee, 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, employee, 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 by a child protective services agency or law enforcement agency 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 child 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 closing a family child 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. (8) or (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.

(11) APPEAL OF DECISION TO DENY OR REVOKE A LICENSE. (a) 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 and submitted to the department of administration's division of hearings and appeals. The request for a hearing shall be received by the division of hearings and appeals within 10 days after the date of the notice under sub. (9). A request for a hearing is considered filed upon its receipt by the division of hearings and appeals. A request for a hearing transmitted by facsimile to the division of hearings and appeals shall be considered filed on the date and time imprinted by the division's facsimile machine on the transmission report that accompanies the document. Documents received by facsimile after midnight local time shall be deemed filed on the first following business day.

Note: A request for hearing should be submitted by mail to the Division of Hearings and Appeals, P.O. Box 7875, Madison, Wisconsin 53707-7875, or should be delivered to the Division at 5005 University Ave., Room 201, Madison, WI. Hearing requests may be faxed to 608-264-9885. A copy of the request should be sent to the appropriate Division of Children and Family Services regional office listed in Appendix A.

(b) The division of hearings and appeals shall conduct an administrative hearing under s. 227.42, Stats., within 30 calendar days after receipt of the request for the administrative hearing, unless any of the following occurs:

1. The aggrieved person consents to an extension of that time period.
2. The petitioner withdraws the request in writing.
3. The petitioner agrees in writing to accept an informal resolution of the appeal.

4. The petitioner abandons the hearing request. The division of hearings and appeals shall determine that abandonment has occurred when the petitioner, without good cause, fails to appear personally or by representative at the time and place set for the hearing or scheduled pre-hearing matters. Abandonment may also be deemed to have occurred when the petitioner or the authorized representative fails to respond within a reasonable time to correspondence from the division regarding the hearing or when the petitioner is not at an agreed-upon telephone number at the agreed time.

(c) The division of hearings and appeals:

1. Shall consider and apply all standards and requirements of this chapter.

2. Issue a decision no later than 30 calendar days after holding the hearing, unless both parties agree to a later date.

3. May dismiss the petition if it determines that the petitioner has abandoned the request pursuant to par. (b) 4.

(d) If, under s. HA 3.09, the division of hearing and appeals issues a proposed decision, both parties may file comments on the decision with the division of hearings and appeals within 15 calendar days from the date of the proposed decision's issuance. At the close of the comment period, the division shall forward a decision and comments to the secretary for issuance of a final decision, and the secretary shall issue the final decision within 30 calendar days thereafter. The decision of the division of hearings and appeals administrative law judge, if adopted by the secretary, constitutes the final decision of the department.

HFS 45.12 Complaints, inspections and enforcement actions. (1) COMPLAINTS. (a) Anyone having a complaint about a licensed or illegally operating family child care center may submit that complaint to the department by telephone, letter or personal interview. A representative of the department shall investigate every complaint. If requested by the complainant, the department shall provide the complainant a written report of the investigation findings.

Note: A complaint should be sent, phoned or delivered to the appropriate Division of Children and Family Services regional office listed in Appendix A.

(b) The licensee may not discharge an employee because the employee has reported violations of this chapter to the licensing representative.

(2) INSPECTION. Pursuant to s. 48.73, Stats, the department may visit and inspect any family child care center at any time during licensed hours of operation. A department licensing representative shall have unrestricted access to the premises identified in the license, including access to children served and staff and child records and any other materials or other individuals having information on the family child care center's compliance with this chapter.

(3) ENFORCEMENT ACTION. The department may order any sanction or impose any penalty on a licensee in accordance with s. 48.685, 48.715 or 48.76, Stats.

Appendix A

REGIONAL OFFICES OF THE DIVISION OF CHILDREN AND FAMILY SERVICES

The Department of Health and Family Services licenses day care centers through five Division of Children and Family Services regional offices. Below are addresses and phone numbers of the regional offices and related counties.

Northeastern Office

(Green Bay)
200 North Jefferson
Suite 411
Green Bay, WI 54301-5191
(920) 448-5312

Brown, Calumet, Door, Fond du Lac, Green
Lake, Kewaunee, Manitowoc, Marinette,
Marquette, Menominee, Oconto, Outagamie,
Ozaukee, Shawano, Sheboygan, Washington,
Waupaca, Waushara, Winnebago,

Northern Office

(Rhineland)
1853 North Stevens Street
P.O. Box 697
Rhineland, WI 54501-0697
(715) 365-2500

Ashland, Bayfield, Florence, Forest, Iron,
Langlade, Lincoln, Marathon, Oneida, Portage,
Price, Sawyer, Taylor, Vilas, Wood

Southeastern Office

(Waukesha)
141 N.W. Barstow Street, Room 209
Waukesha, WI 53188-3789
(262) 521-5100

Kenosha, Milwaukee, Racine, Waukesha

Southern Office

(Madison)
2917 International Lane, Suite 110
Madison, WI 53704
(608) 243-2400

Adams, Columbia, Crawford, Dane, Dodge,
Grant, Green, Iowa, Jefferson, Juneau,
Lafayette, Richland, Rock, Sauk, Walworth

Western Office

(Eau Claire)
610 Gibson Street Suite 2,
Eau Claire, WI 547013695
(715) 836-2157

Barron, Buffalo, Burnett, Chippewa, Clark,
Douglas, Dunn, Eau Claire, Jackson, LaCrosse,
Monroe, Pepin, Pierce, Polk, Rusk, St. Croix,
Trempealeau, Vernon, Washburn

Appendix B

CACFP MEAL PATTERN REQUIREMENTS - AGES 1 to 12

The meal pattern shall contain, as a minimum, each of the following components in the amounts indicated for the specific age group.

| | Ages 1 & 2 | Ages 3, 4, & 5 | Age 6 up to 12 |
|-----------------------------------------------------------------------------|--------------------------------|--------------------------------|------------------------------|
| BREAKFAST | | | |
| 1. Milk, fluid | 1/2 cup | 3/4 cup | 1 cup |
| 2. Juice, ^a fruit or vegetable or Fruit(s) or vegetable(s) | 1/4 cup | 1/2 cup | 1/2 cup |
| 3. Grains/Breads: ^b | | | |
| Bread | 1/2 slice | 1/2 slice | 1 slice |
| Combread, biscuits, rolls, muffins, etc ^b | 1/2 serving | 1/2 serving | 1 serving |
| Cereal: | | | |
| Cold dry | 1/4 cup or 1/3 oz ^c | 1/3 cup or 1/2 oz ^c | 3/4 cup or 1 oz ^c |
| Hot cooked | 1/4 cup total | 1/4 cup | 1/2 cup |
| Cooked pasta or noodle products | 1/4 cup | 1/4 cup | 1/2 cup |
| LUNCH OR SUPPER | | | |
| 1. Milk | 1/2 cup | 3/4 cup | 1 cup |
| 2. Meat or meat alternate: | | | |
| Meat, poultry, fish, cheese | 1 oz | 1+1/2 oz | 2 oz |
| Alternate protein products ^g | 1 oz | 1+1/2 oz | 2 oz |
| Yogurt, plain or flavored, unsweetened or sweetened | 4 oz or 1/2 cup | 6 oz or 3/4 cup | 8 oz or 1 cup |
| Egg | 1/2 egg | 3/4 egg | 1 egg |
| Cooked dry beans or peas | 1/4 Cup | 3/8 cup | 1/2 cup |
| Peanut butter or other nut or seed butter | 2 Tbsp. | 3 Tbsp. | 4 Tbsp. |
| Peanuts or soynuts or tree nuts or seeds | 1/2 oz = 50% ^d | 3/4 oz = 50% ^d | 1 oz = 50% ^d |
| 3. Vegetable and/or fruit ^e (at least two) | 1/4 cup total | 1/2 cup total | 3/4 cup total |
| 4. Grains/Breads: ^b | | | |
| Bread | 1/2 slice | 1/2 slice | 1 slice |
| Combread, biscuits, rolls, muffins, etc ^b | 1/2 serving | 1/2 serving | 1 serving |
| Cereal, hot cooked | 1/4 cup total | 1/4 cup | 1/2 cup |
| Cereal, cold, dry | 1/4 cup or 1/3 oz ^c | 1/3 cup or 1/2 oz ^c | 3/4 cup or 1 oz ^c |
| Cooked pasta or noodle products | 1/4 cup | 1/4 cup | 1/2 cup |
| SUPPLEMENT | | | |
| Select two of the following four components: | | | |
| 1. Milk | 1/2 cup | 1/2 cup | 1 cup |
| 2. Juice, a, ^f fruit or vegetable or Fruit(s) or vegetable(s) | 1/2 cup | 1/2 cup | 3/4 cup |
| 3. Grains/Breads: ^b | | | |
| Bread | 1/2 slice | 1/2 slice | 1 slice |
| Combread, biscuits, rolls, muffins, etc ^b | 1/2 serving | 1/2 serving | 1 serving |
| Cereal: | | | |
| Cold dry | 1/4 cup or 1/3 oz ^c | 1/3 cup or 1/2 oz ^c | 3/4 cup or 1 oz ^c |
| Hot cooked | 1/4 cup | 1/4 cup | 1/2 cup |
| 4. Meat or meat alternate | | | |
| Meat, poultry, fish, cheese | 1/2 oz | 1/2 oz | 1 oz |
| Alternate protein products ^g | 1/2 oz | 1/2 oz | 1 oz |
| Egg, Large ^h | 1/2 egg | 1/2 egg | 1/2 egg |

| | | | |
|-----------------------------------------------------|-----------------|-----------------|-----------------|
| Cooked dry beans or peas | 1/8 cup | 1/8 cup | 1/4 cup |
| Peanut butter or other nut or seed butter | 1 Tbsp. | 1 Tbsp. | 2 Tbsp. |
| Peanuts or soynuts or tree nuts or seeds | 1/2 oz | 1/2 oz | 1 oz |
| Yogurt, plain or flavored, unsweetened or sweetened | 2 oz or 1/4 cup | 2 oz or 1/4 cup | 4 oz or 1/2 cup |

- a Must be full strength fruit or vegetable juice.
- b Bread, pasta or noodle products, and cereal grains shall be whole grain or enriched, combread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour.
- c Either volume (cup) or weight (oz), whichever is less.
- d No more than 50% of the requirement shall be met with tree nuts or seeds. Tree nuts and seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 oz. Of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.
- e Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
- f Juice may not be served when milk is the only other component.
- g Alternate protein products may be used as acceptable meat alternates.
- h One-half egg meets the required minimum amount (one-ounce or less) of meat alternate.

Appendix C

CACFP MEAL PATTERN REQUIREMENTS - BIRTH THROUGH 11 MONTHS

The infant meal pattern shall contain, as a minimum, each of the following components in the amounts indicated for the specific age group.

The minimum quantity of food shall be provided to the infant, but may be served during a span of time consistent with the infant's eating habits.

Infant Meal Pattern

| Birth Through 3 Months | 4 Through 7 Months | 8 Through 11 Months |
|------------------------------------------------------------------|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| BREAKFAST | | |
| 4 - 6 fl. oz. formula ¹ or breast milk ^{5,6} | 4 - 8 fl. oz. formula ¹ or breast milk ^{5,6} | 6 - 8 fl. oz. formula ¹ or breast milk ^{5,6} |
| | 0 - 3 T. infant cereal ² (optional) | 2 - 4 T. infant cereal ² |
| | | 1 - 4 T. fruit and/or vegetable |
| LUNCH OR SUPPER | | |
| 4 - 6 fl. oz. formula ¹ or breast milk ^{5,6} | 4 - 8 fl. oz. formula ¹ or breast milk ^{5,6} | 6 - 8 fl. oz. formula ¹ or breast milk ^{5,6} |
| | 0 - 3 T. infant cereal ² (optional) | 2 - 4 T. infant cereal ² and/or |
| | 0 - 3 T. fruit and/or vegetable (optional) | 1 - 4 T. meat, fish, poultry, egg yolk, or cooked dry beans or peas, or |
| | | 1/2-2 oz. cheese or 1-4 oz. cottage cheese, cheese food, or cheese spread |
| | | 1 - 4 T. fruit and/or vegetable |
| SUPPLEMENT | | |
| 4 - 6 fl. oz. formula ¹ or breast milk ^{5,6} | 4 - 6 fl. oz. formula ¹ or breast milk ^{5,6} | 2 - 4 fl. oz. formula ¹ , breast milk ^{5,6} , or fruit juice ³ |
| | | 0 - 1/2 bread or |
| | | 0 - 2 crackers (optional) ⁴ |

1 Shall be iron-fortified infant formula.

2 Shall be iron-fortified dry infant cereal.

3 Shall be full strength fruit juice.

4 Shall be from whole-grain or enriched meal or flour.

5 It is recommended that breast milk be served in place of formula from birth through 11 months.

6 For some breastfed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered, with additional breast milk offered if the infant is still hungry.

Required Guidelines for Infant Meal Pattern

Definition of Infant. Any child less than 12 months of age.

Definition of Infant Formula. Infant formula defined by USDA is "any iron-fortified infant formula intended for dietary use as a sole source for food for normal healthy infants served in liquid state at manufacturer's recommended dilution".

Infant Formula/Breast milk. The decision regarding feeding infants breast milk or the type of infant formula is one for the infant's doctor and parents/guardian to make together.

Definition of Optional. Optional foods must be served as each infant becomes developmentally ready for the specified foods.

Appendix D

CONSUMER PRODUCTS SAFETY COMMISSION (www.cpsc.gov)

Your Used Crib Could Be DEADLY CPSC Document # 5020

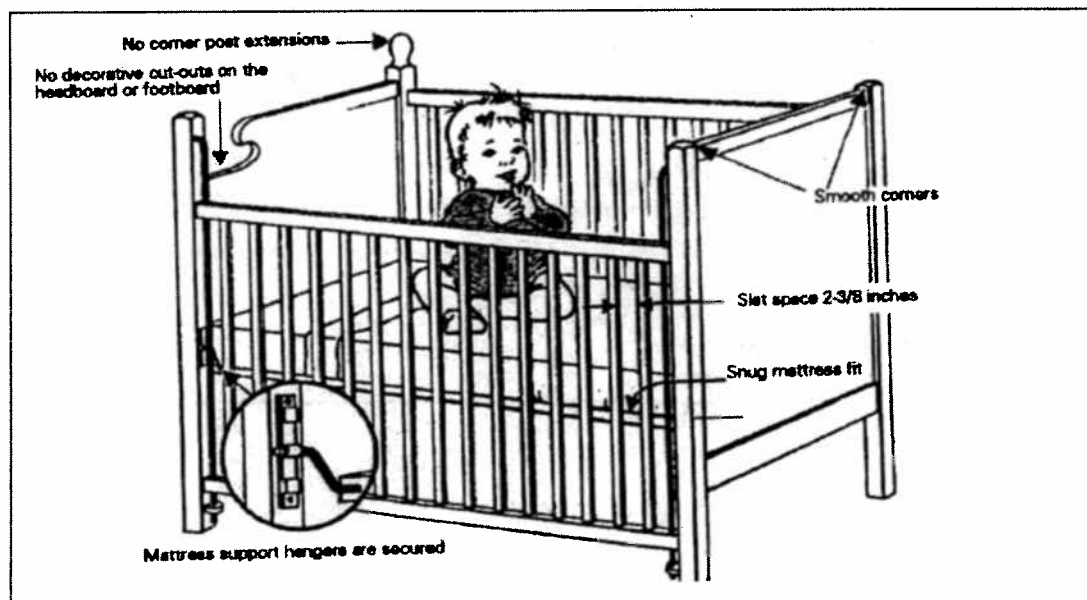
An unsafe used crib could be very dangerous for a baby. Each year, about 50 babies suffocate or strangle when they become trapped between broken crib parts or in cribs with older, unsafe designs.

A safe crib is the best place to put a baby to sleep. Look for a crib with a certification seal showing that it meets national safety standards.

If a crib does not meet these guidelines, it may not be used by children enrolled in your child care center. To protect all children, destroy it and replace it with a safe crib.

A safe crib has:

- No missing, loose, broken, or improperly-installed screws, brackets, or other hardware on the crib or the mattress support.
- No more than 2 3/8 inches between crib slats so a baby's body cannot fit through the slats.
- A firm, snug-fitting mattress so a baby cannot get trapped between the mattress and the side of the crib.
- No corner posts over 1/16 of an inch above the end panels (unless they are over 16 inches high for a canopy) so a baby cannot catch clothing and strangle.
- No cutout areas on the headboard or foot board so a baby's head cannot get trapped.
- A mattress support that does not easily pull apart from the corner posts so a baby cannot get trapped between mattress and crib.
- No cracked or peeling paint to prevent lead poisoning.
- No splinters or rough edges.



Appendix E

INSTRUCTIONS FOR OBTAINING DEPARTMENT FORMS FOR FAMILY CHILD CARE CENTERS Revised [Revisor to insert effective date]

The Department forms listed below are arranged in two categories: 1) those that the Department requires family child care centers to use are designated as "REQUIRED"; and 2) those that the family child care center may use, at their option, if they do not use their own forms to record the same information required by the licensing rules. Forms designated as "REQUIRED" shall be used by licensees.

Applicants and licensees may obtain copies of these forms from the Department's website:

http://www.dhfs.state.wi.us/rl_dcfs/INDEX.HTM (click on Forms & Publications.) Forms on the website will require use of Adobe Acrobat to view.

Applicants and licensees may complete the form online at the Department's website, save the file to their hard drive and print a copy for their records. Licensees without Internet access, or if you want to request a form from the Department, please send Forms/Publications Requisition, DMT-25 to the address below. **The Department will send only one copy of each form to each applicant or licensee.** Applicants and licensees may reproduce as many paper and electronic forms as they need. To avoid problems with filling the request, be sure to indicate the form number and the form title on the DMT-25 and fill in your name and address in the "SHIP TO" area of the requisition. This information shall be provided in order for the request to be filled. The completed Forms/Publications Requisitions should be sent to the following address:

Department of Health and Family Services
Division of Children and Family Services
Forms Manager
P.O. Box 8916
Madison, WI 53708-8916

| <u>FORM #</u> | <u>FORM TITLE</u> | <u>REQUIRED?</u> |
|---------------|--------------------------------------------------------------------------------|------------------|
| CFS-0052 | Vehicle Safety Inspection | YES |
| CFS-0053 | Child Care Staff Record | YES |
| CFS-0053A | Child Care Staff Continuing Education Record | |
| CFS-0054 | Child Care Provider Staff Health Report | YES |
| CFS-0055 | Child Care Accident/Death Report | |
| CFS-0056 | Child Care Center Transportation Permission | |
| CFS-0058 | Child Care Field Trip or Other Activity Notification / Permission | |
| CFS-0058A | Notificación / Permiso Para Excursiones O Otra Actividad De Guardería De Niños | |
| CFS-0059 | Authorization to Administer Medication | |
| CFS-0059A | Autorización Para Administrar Medicamentos | |
| CFS-0060 | Child Health Report - In-Home, Family Child Care, Child Care Centers | YES |
| CFS-0060A | Reporte de Salud del Niño en el Hogar, Guardería Familiares, Guardería Grupal | YES |
| CFS-0061 | Child Care Intake for Child Under 2 Years | YES |
| CFS-0062 | Child Care Child Enrollment and Health History | YES |
| CFS-0104 | Child Care School-Age Agreement (Reverse side of CFS-56) | |
| CFS-0460 | Family Child Care Center Fire and Safety Report | |
| CFS-0462 | Family Child Care Center Compliance Study | |
| CFS-0865 | Child Care Center Safety Checklist | |
| CFS-1675 | Child Care Child Record Checklist | |
| CFS-2255 | Family Child Care Orientation Checklist | YES |
| DMT-0025 | Forms / Publications Requisition | |
| DPH-4192 | Child Care Immunization Record | |
| DPH-4192S | Registro De Immunizacion Para Guardería de Niños | |
| HFS-0064 | Background Information Disclosure | YES |

SECTION 2. HFS 46 (title) is amended to read:

HFS 46 GROUP ~~DAY~~ CHILD CARE CENTERS FOR CHILDREN

SECTION 3. HFS 46.01 is amended to read:

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 child 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~~ child care centers.

SECTION 4. HFS 46.02 (1) (intro) and (d) are amended to read:

HFS 46.02 Applicability. (1) INCLUDED AND EXCLUDED CARE ARRANGEMENTS. This chapter applies to all group ~~day~~ child 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 any of the following:

(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~~ temporary assistance to needy families or Wisconsin works 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.

SECTION 5. HFS 46.03 (1) and (3) are amended to read:

HFS 46.03 (1) "Administrator" means the person responsible to the licensee for management of the group ~~day~~ child care center.

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

SECTION 6. HFS 46.03 (3m) and (4m) are created to read:

HFS 46.03 (3m) "Caregiver background check" means the retrieval of information about an individual's past criminal conduct pursuant to s. 48.685, Stats., and ch. HFS 12 that may bear on the suitability of that individual to assume a child caregiving role or have regular contact with children at the center.

(4m) "Center-provided vehicle" means a vehicle owned or leased by the center or a vehicle owned by the licensee or an employee that is used to transport children, but does not include a vehicle owned and driven by a parent or volunteer.

SECTION 7. HFS 46.03 (6) is amended to read:

HFS 46.03 (6) "Child care worker" means a child care teacher or assistant child care teacher in a group ~~day~~ child care center.

SECTION 8. HFS 46.03 (7) is repealed.

SECTION 9. HFS 46.03 (8m), (10m), (11g) and (11r) are created to read:

HFS 46.03 (8m) "Course for credit" means a course that is worth at least 2 credits from an institution of higher education.

(10m) "Emergency" means any of the following situations: fire; tornado; flood; loss of building service including, no heat, water, electricity, or telephone; extreme outdoor heat or cold; threats to the building or its occupants; lost or missing children; or a medical or family situation requiring immediate attention.

(11g) "Fit and qualified" means displaying the capacity to successfully nurture and care for children and shall not include any of the following:

(a) Abuse of alcohol or drugs.

(b) A history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children, as described in ch. HFS 12.

(c) Exercise of unsound judgment.

(11r) "Full day center" means a center that accepts children for care for 5 or more consecutive hours in a day.

SECTION 10. HFS 46.03 (13) is amended to read:

HFS 46.03 (13) "Group day child care center" or "center" means a facility where a person for less than 24 hours a day provides care and supervision for 9 or more children who are not related to the provider.

SECTION 11. HFS 46.03 (14g) and (14r) are created to read:

HFS 46.03 (14g) "In care" means enrolled in the center, with the center providing supervision, either on or off the premises, for the safety and the developmental needs of the child or children.

(14r) "Inclement weather" means stormy or severe weather such as any of the following:

(a) Heavy rain.

(b) Temperatures above 90° F.

(c) Wind chills of 0° F. or below for children age 2 and above.

(d) Wind chills of 20° F. or below for children under age 2.

SECTION 12. HFS 46.03 (17) and (18) are amended to read:

HFS 46.03 (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 child care center and for meeting the requirements of this chapter.

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