

**2015 DRAFTING REQUEST**

**Bill**

Received: **9/18/2015** Received By: **gmalaise**  
For: **Jerry Petrowski (608) 266-2502** Same as LRB:  
May Contact: By/Representing: **Tyler (Heaton)**  
Subject: **Children - day care** Drafter: **gmalaise**  
**Children - out-of-home placement** Addl. Drafters: **eshea**  
**Public Assistance - Wis works** **kpleviak**

Extra Copies:

Submit via email: **YES**  
Requester's email: **Sen.Petrowski@legis.wisconsin.gov**  
Carbon copy (CC) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Administrative rules relating to child care, child welfare agencies, and public assistance records

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**Instructions:**

Draft companion to -2859

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 9/18/2015	kfollett 9/18/2015	_____			
/P1	gmalaise 9/21/2015		_____	mbarman 9/18/2015		
/1		kfollett 9/23/2015	_____	lparisi 9/23/2015	sbasford 9/25/2015	

FE Sent For:

NOT  
NEEDED

<END>



State of Wisconsin  
2015 - 2016 LEGISLATURE

IN 9/18

Today - commission

3298/P1

LRB-2859/P1

GMM/EHS/KRP:kjf/cjs/klm

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

***Introduction***

This bill amends various rules promulgated by the Department of Children and Families (DCF) governing the certification of child care operators, governing the licensing of child welfare agencies, and establishing standards for the operation of child care centers and eliminates rules promulgated by DCF related to retaining public assistance case records.

***Child care certification***

Under current law, DCF regulates the certification of child care operators for the purpose of reimbursement under the Wisconsin Shares child care subsidy program. Under DCF's current rules, agencies that may certify child care operators are called "county and tribal agencies" and include county departments of social services, county departments of human services, and tribal agencies. This bill

amends DCF rules to refer to agencies that certify child care operators as “certification agencies.” The bill expands the definition to include DCF in a county with a population of 750,000 or more and any agency that certifies child care operators through a contract with DCF, a county department of social services, a county department of human services, or a tribal agency.

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

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

### ***Child care center operations***

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

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

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

In addition, those rules include: 1) a rule requiring a child receiving care from a family child care center or a child care center providing care and supervision for more than eight children (group child care center) to have an initial health examination no later than three months after being admitted to the child care center and to have followup health examinations at certain intervals after that; and 2) a rule requiring a report on such a health examination to be made on a form provided by DCF that is signed and dated by a licensed physician, physician assistant, or

HealthCheck provider, which is a provider of health assessment and evaluation services certified by the Department of Health Services. This bill permits a health examination report to be made on an electronic printout from a licensed physician, physician assistant, or HealthCheck provider.

Current law permits DCF to award staff retention grants and quality improvement grants to child care providers that meet certain quality of care standards established under rules promulgated by DCF. Current law, however, does not allocate any moneys for those grants. This bill eliminates those rules.

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

### ***Child welfare agency licensing***

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

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

### ***Public assistance records***

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

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

1           **SECTION 1.** DCF 54.02 (3) (d) 1. of the administrative code is amended to read:  
2           DCF 54.02 (3) (d) 1. At least ~~3 weeks~~ 30 days prior to the expiration  
3 continuation date of the current licensing license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           DCF 202.04 (4) (a) A ~~county or tribal~~ certification agency may charge a fee for  
22 family child care certification not to exceed 150 percent of the licensing fee for a  
23 family child care center that provides care and supervision for 4 to 8 children, under  
24 s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s.  
25 48.685, Stats.



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

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

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

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

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

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

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

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

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

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

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

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

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

5 DCF 202.04 (7) (b) 1. ‘General.’ ~~County and tribal~~ Certification agencies shall  
6 help assure operator compliance with s. DCF 202.08 (2) to (12) in accordance with  
7 this section.

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

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

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

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

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

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

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

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

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

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

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

14 DCF 202.05 (1) The ~~county or tribal certification~~ agency shall follow the  
15 requirements for criminal history and child abuse record search that are contained  
16 in s. 48.685, Stats., and ch. DHS 12, and the crimes table incorporated into ch. DHS  
17 12, and shall apply the standards that apply to licensed child care facilities, except  
18 the ~~county or tribal certification~~ agency shall require any prospective or current  
19 employee, contractor under the control of the certified child care operator, volunteer,  
20 or non-client resident to submit the completed background information form to the  
21 ~~county or tribal certification~~ agency prior to initial certification and recertification.  
22 In applying the provisions relating to rehabilitation decisions, all decisions and  
23 review procedures shall be made and conducted by the ~~county or tribal certification~~  
24 agency.

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

**SECTION 30**

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

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

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

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

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

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

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

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

20            202.06 (1) (j) The evaluation under s. DCF 202.04 (7) (b) 3. e. gives the ~~county~~  
21 ~~or tribal~~ certification agency reasonable concern that the person's physical or mental  
22 health may endanger children in care.

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

24            DCF 202.06 (2) The ~~county or tribal~~ certification agency shall require a child  
25 care operator to submit a new application for certification if the operator's previous

1 certification was denied, revoked, or not renewed for a reason in s. DCF 202.05 or  
2 202.06 (1). The ~~county or tribal~~ certification agency may refuse to accept a new  
3 application for 2 years after the date of the denial, revocation, or refusal to renew the  
4 certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

1            DCF 202.08 (1) (b) 2. c. Prior to issuing a Level I (regular) certification, the  
2 ~~county or tribal certification~~ agency may require that an applicant has graduated  
3 from high school, has obtained a high school equivalency diploma under s. 115.29 (4),  
4 Stats., or has obtained a certificate of general education development under s. PI  
5 5.04.

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

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

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

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

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

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

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

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

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

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

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

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

14          DCF 202.08 (4) (b) The physical examination report shall be made on an  
15 electronic printout from a licensed physician, physician assistant, or health check  
16 provider or on a form provided by the department that is signed and dated by a  
17 licensed physician, a physician's physician assistant, or a health check provider.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

**SECTION 57**

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

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

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

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

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

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

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

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

18          DCF 251.03 (2) "Assistant child care teacher" means a child care worker who  
19          works under the supervision of a child care teacher and who meets the qualifications  
20          under s. DCF 251.05 (1) (e) (g).

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

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

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

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

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

10 DCF 251.04 (5) (a) 4. The physical examination report required under s. DCF  
11 251.05 (1) ~~(j)~~ (L) 1.

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

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

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

NOTE: A HealthCheck provider is a medical professional associated with or  
employed by an outpatient hospital facility, a health maintenance organization, a visiting  
nurse association, a clinic operated under a physician’s supervision, a local public health  
agency, a home health agency, a rural health clinic, an Indian health agency, or a  
neighborhood health center.

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

19 DCF 251.09 (1) (e) The regularly assigned child care teacher and assistant  
20 child care teacher for each group of infants and toddlers shall have a minimum of 10

1 hours of training in infant and toddler care approved by the department within 6  
2 months after assuming the position. If the training is not part of the required  
3 entry-level training under s. DCF 251.05 (1) ~~(d) or (e)~~ (f) or (g), it shall be obtained  
4 through continuing education.

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

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

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

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

11

(END)

## Malaise, Gordon

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**From:** Longsine, Tyler  
**Sent:** Monday, September 21, 2015 2:48 PM  
**To:** Malaise, Gordon  
**Subject:** FW: DCF bill draft comments (LRB 2859)

Gordon,

Please see the comments below from DCF. First are the concerns DCF expresses in the actual bill or just in the analysis? Second is it possible to change the language in the analysis?

Thanks,

***Tyler Longsine***

Office of Representative Dave Heaton  
Wisconsin's 85<sup>th</sup> Assembly District  
(608) 266-0654  
[Tyler.Longsine@legis.wisconsin.gov](mailto:Tyler.Longsine@legis.wisconsin.gov)

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**From:** Buschman, Sara - DCF [mailto:Sara.Buschman@wisconsin.gov]  
**Sent:** Monday, September 21, 2015 8:26 AM  
**To:** Longsine, Tyler <Tyler.Longsine@legis.wisconsin.gov>  
**Subject:** DCF bill draft comments (LRB 2859)

Tyler,

Per our conversation, I wanted to circle back with you on the "Right the Rules" bill draft. In looking over email exchanges from our staff, I see it is LRB 2859/P1. The changes from the bill last session, AB 677, look ok. There is one error in the LRB analysis which usually LRB leaves alone since it is not statutory but I will point it out because it is a preliminary draft and so probably can still be changed – also, Gordon should double check that it isn't in the actual bill language.

Here is what our program staff said:

correction/clarification regarding the analysis (page 2, 3<sup>rd</sup> paragraph):

The analysis states that the current rule requires a "*provider*" to demonstrate free from TB and that it is currently required prior to certification *or* recertification.

The correction is that DCF 202 currently requires TB test prior to and at re-certification for only the *operator*.

Let me know if you need anything else or have any questions.

Sara

Sara Buschman

*Assistant Deputy Secretary*  
Department of Children and Families

---

201 East Washington Avenue  
Madison, WI 53703

T: **608.422-7068 - please note new number**  
E: [sara.buschman@wisconsin.gov](mailto:sara.buschman@wisconsin.gov)



State of Wisconsin  
2015 - 2016 LEGISLATURE

1

LRB-3298/P1

GMM/EHS/KRP:kjf/cjs/klm

IN Mon 9/21

Wanted Wed 9/23

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

( PP 2012 )

Regen

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

*Analysis by the Legislative Reference Bureau*

***Introduction***

This bill amends various rules promulgated by the Department of Children and Families (DCF) governing the certification of child care operators, governing the licensing of child welfare agencies, and establishing standards for the operation of child care centers and eliminates rules promulgated by DCF related to retaining public assistance case records.

***Child care certification***

Under current law, DCF regulates the certification of child care operators for the purpose of reimbursement under the Wisconsin Shares child care subsidy program. Under DCF's current rules, agencies that may certify child care operators are called "county and tribal agencies" and include county departments of social services, county departments of human services, and tribal agencies. This bill





HealthCheck provider, which is a provider of health assessment and evaluation services certified by the Department of Health Services. This bill permits a health examination report to be made on an electronic printout from a licensed physician, physician assistant, or HealthCheck provider.

Current law permits DCF to award staff retention grants and quality improvement grants to child care providers that meet certain quality of care standards established under rules promulgated by DCF. Current law, however, does not allocate any moneys for those grants. This bill eliminates those rules.

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

### ***Child welfare agency licensing***

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

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

### ***Public assistance records***

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           DCF 202.04 (4) (a) A ~~county or tribal~~ certification agency may charge a fee for  
22 family child care certification not to exceed 150 percent of the licensing fee for a  
23 family child care center that provides care and supervision for 4 to 8 children, under  
24 s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s.  
25 48.685, Stats.

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

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

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

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

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

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

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

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

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

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

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

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

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

5            DCF 202.04 (7) (b) 1. ‘General.’ ~~County and tribal~~ Certification agencies shall  
6 help assure operator compliance with s. DCF 202.08 (2) to (12) in accordance with  
7 this section.

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

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

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

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

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

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

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

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

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

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

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

14           DCF 202.05 (1) The ~~county or tribal~~ certification agency shall follow the  
15       requirements for criminal history and child abuse record search that are contained  
16       in s. 48.685, Stats., and ch. DHS 12, and the crimes table incorporated into ch. DHS  
17       12, and shall apply the standards that apply to licensed child care facilities, except  
18       the ~~county or tribal~~ certification agency shall require any prospective or current  
19       employee, contractor under the control of the certified child care operator, volunteer,  
20       or non-client resident to submit the completed background information form to the  
21       ~~county or tribal~~ certification agency prior to initial certification and recertification.  
22       In applying the provisions relating to rehabilitation decisions, all decisions and  
23       review procedures shall be made and conducted by the ~~county or tribal~~ certification  
24       agency.

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

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

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

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

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

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

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

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

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

20            202.06 (1) (j) The evaluation under s. DCF 202.04 (7) (b) 3. e. gives the ~~county~~  
21 ~~or tribal~~ certification agency reasonable concern that the person's physical or mental  
22 health may endanger children in care.

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

24            DCF 202.06 (2) The ~~county or tribal~~ certification agency shall require a child  
25 care operator to submit a new application for certification if the operator's previous



1 certification was denied, revoked, or not renewed for a reason in s. DCF 202.05 or  
2 202.06 (1). The ~~county or tribal~~ certification agency may refuse to accept a new  
3 application for 2 years after the date of the denial, revocation, or refusal to renew the  
4 certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

1            DCF 202.08 (1) (b) 2. c. Prior to issuing a Level I (regular) certification, the  
2        ~~county or tribal certification~~ agency may require that an applicant has graduated  
3        from high school, has obtained a high school equivalency diploma under s. 115.29 (4),  
4        Stats., or has obtained a certificate of general education development under s. PI  
5        5.04.

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

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

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

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

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

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

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

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

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

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

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

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

14          DCF 202.08 (4) (b) The physical examination report shall be made on an  
15 electronic printout from a licensed physician, physician assistant, or health check  
16 provider or on a form provided by the department that is signed and dated by a  
17 licensed physician, ~~a physician's~~ physician assistant, or ~~a~~ health check provider.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10           DCF 251.04 (5) (a) 4. The physical examination report required under s. DCF  
11           251.05 (1) (j) (L) 1.

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

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

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

NOTE: A HealthCheck provider is a medical professional associated with or  
employed by an outpatient hospital facility, a health maintenance organization, a visiting  
nurse association, a clinic operated under a physician’s supervision, a local public health  
agency, a home health agency, a rural health clinic, an Indian health agency, or a  
neighborhood health center.

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

19           DCF 251.09 (1) (e) The regularly assigned child care teacher and assistant  
20           child care teacher for each group of infants and toddlers shall have a minimum of 10

**SECTION 65**

1 hours of training in infant and toddler care approved by the department within 6  
2 months after assuming the position. If the training is not part of the required  
3 entry-level training under s. DCF 251.05 (1) ~~(d) or (e)~~ (f) or (g), it shall be obtained  
4 through continuing education.

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

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

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

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

11

(END)



**Basford, Sarah**

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**From:** Gralinski, Matthew  
**Sent:** Friday, September 25, 2015 10:30 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -3298/1

Please Jacket LRB -3298/1 for the SENATE.

**Matt Gralinski**  
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