



Clearinghouse Rule 07-071

State of Wisconsin Department of Workforce Development

CHILD CARE CERTIFICATION

Chapter DWD 55

The Wisconsin Department of Workforce Development proposes an order *to repeal* DWD 55.02(17); 55.04 (3)(b), (3)(c)(note), (7)(b)4.; and 55.05(3); *to renumber and amend* DWD 55.02(4m); 55.04(4); 55.08(2)(b) and (9)(c); *to amend* DWD 55(title); 55.01(1) and (2); 55.02(3), (6), (8), (20); 55.04(1), (2), (5)(title), (5)(a), (5)(b), (7)(a), (7)(b)1., (7)(b)2.a., (7)(b)2.b., (7)(b)2.c., (7)(b)2.d., (7)(b)2.e., (7)(b)2.f., (7)(b)3.a., (7)(b)3.b., (7)(b)3.c., (7)(b)3.d., (9); 55.05(1), (1)(note), (2); 55.06(1)(intro.), (1)(a), (1)(b), (1)(d), (1)(e), (1)(g), (1)(h), (2), (3), (4); 55.07; 55.08(title), (1)(a)3., (1)(b)1., (1)(b)2.(intro.), (1)(b)2.a., (2)(title), (2)(intro.), (2)(c)(intro.), (2)(e)(intro.), (2)(e)2., (2)(f), (2)(j), (2)(k), (2)(L), (3), (4)(a)(intro.), (4)(c), (4)(e), (4)(f), (4)(g), (4)(h), (4)(i), (4)(j), (5)(a), (5)(b), (5)(d), (5)(e), (5)(f), (5)(g), (5)(h), (5)(i), (6)(c), (6)(d), Table 55.08(6), 55.08(7)(intro.), (7)(b), (9)(intro.), (9)(a), (9)(c)(intro.), (9)(d), (10)(intro.), (11)(intro.), (12)(intro.), (12)(c), (12)(g), (12)(h), (12)(i), (13), (15); 55.09(1), (2)(a)(intro.), (2)(a)2., (2)(e)(intro.), (3)(c), (4)(a)2., (5)(d), (6)(f), (7)(b)(intro.), (7)(c), (8)(c), (9)(b), (12)(b), and (12)(d); *to repeal and recreate* DWD 55.02(2), (7), (15), (22); 55.04(3)(e), (7)(b)2.g., (9); 55.08(1)(c), (2)(a), (6)(a), (6)(b)(intro.), (8); 55.09 (12)(e); and *to create* DWD 55.02(1m), (3h), (5g), (5r), (8m), (9g), (9r), (12m), (20c), (20g), (20n), (20r), (20w); 55.04(3)(f), (4)(b), (7)(b)2.bm., (7)(b)3.e.; 55.06(1)(i) and (j); 55.065; 55.08(1)(b)1.(note), (1)(b)2.a.(note), (1)(b)2.d., (1)(d), (1)(e), (2)(am), (2)(b)1. and 2., (2)(c)(note), (2)(p), (4)(k), (4)(k)(note), (5)(em), (5)(j), (6)(e), (8m), (9)(a)(note), (9)(c)1., 2., 3., and 4., (12)(j); 55.09(1m), (2)(a)3., (2)(f), (2)(g), (4)(a)3., (4)(b)4., (4)(b)5., (7)(am), (12)(f), and (12)(g), relating to child care certification and affecting small businesses.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Section 49.155 (1d), Stats., as affected by 2005 Wisconsin Act 165; and s. 227.11, Stats.

Statutes interpreted: Sections 48.651 and 48.685, Stats.; Sections 49.155 (1d) and 253.15 (4), Stats., as affected by 2005 Wisconsin Act 165; Section 347.48 (4), Stats., as affected by 2005 Wisconsin Act 106

Related statutes and rules: Section 48.65, Stats, and Chapters HFS 45, 46, and 55

Explanation of agency authority. Section 49.155 (1d), Stats., provides that the department shall promulgate rules establishing standards for the certification of child care providers under s. 48.651, Stats. The department shall consult with the Child Abuse and Neglect Prevention Board before promulgating those rules. In establishing the requirements for certification of a child care provider, the department shall include a requirement that all providers and all employees and volunteers of a provider who provide care and supervision for children receive, before the date on which the provider is certified or the employment or volunteer work commences, whichever is applicable, training in the most current medically accepted methods of preventing sudden infant death syndrome, if the provider, employee, or volunteer provides care and supervision for children under one year of age, and the training relating to shaken baby syndrome and impacted babies required under s. 253.15 (4), Stats., if the provider, employee, or volunteer provides care and supervision for children under 5 years of age.

In establishing the requirements for certification as a Level II certified family child care provider, the department may not include any other requirement for training for providers.

Section 48.651, Stats., provides that each county department shall certify, according to the standards adopted by the Department of Workforce Development under s. 49.155 (1d), each child care provider reimbursed for child care services provided to families determined eligible under s. 49.155, unless the provider is a child care center licensed by the Department of Health and Family Services under s. 48.65, Stats., or is established or contracted for by a school board under s. 120.13 (14), Stats. The county shall certify two categories of child care providers: Level I and Level II.

Summary of the proposed rules. The proposed rules make the following changes:

Shaken baby syndrome

The proposed rules implement the requirements of 2005 Wisconsin Act 165, relating to training to prevent shaken baby syndrome. The proposed rules require county and tribal agencies provide information on shaken baby syndrome to applicants prior to initial certification . All certified family child care operators, employees, and volunteers who provide care and supervision for children under 5 years of age shall receive department-approved training on shaken baby syndrome and appropriate ways to manage crying or fussing children before the date on which the child care operator is certified or the employment or volunteer work commences.

Restraints for children in motor vehicles

The proposed rules also adopt the changes required by 2005 Wisconsin Act 106 on using booster seats and other restraints for children under 8 years old in motor vehicles used to transport children. If the child is less than one year old or weighs less than 20 pounds, the child shall be properly restrained in a rear-facing individual child care safety seat. If the child is at least 1 year old and weighs at least 20 pounds but less than 4 years old or weighs less than 40 pounds, the child shall be properly restrained in a forward-facing individual child car safety seat. If the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly

restrained in a shoulder-positioning child booster seat. Children under age 13 years may not ride in the front seat of a vehicle.

Definitions

The proposed rules use the term “certified child care operator” to mean an individual, corporation, partnership, limited liability corporation, non-incorporated association, or cooperative that has legal and financial responsibility for the operation of a child care program and for meeting the requirements under this chapter. A “provider” means a certified child care operator or an employee or volunteer of the child care operator who provides care and supervision for infant, preschool, or school-age children on behalf of the operator.

The proposed rules also use the term “child care” in place of “day care.”

Certification process

- Each county or tribal agency may determine whether to require an applicant to submit references. Under the current rules, the department requires that applicants for certification provide references to the county or tribal agency.
- Under the current rules, within 60 days after receiving a completed application for certification or recertification, a county or tribal agency must either approve the application and issue a certificate or deny the application. Under the proposed rules, the county or tribal agency shall issue a certification to an applicant within 60 days after determining that the applicant is fit and qualified and the applicable standards in ss. DWD 55.08 or 55.09 are in compliance. The rules define “fit and qualified” as displaying the capacity to successfully nurture and care for children, including consideration of abuse of alcohol or drugs, history of a civil or criminal conviction or rule violation that substantially relates to caring for children as described in ch. HFS 12, exercise of unsound judgment, or a history of civil or criminal offenses or any other actions that demonstrate an inability to manage the activities of a child care program. A county or tribal agency may backdate approval to the date that the county or tribal agency received the child care operator’s completed application for certification.
- A county or tribal agency may charge a fee for school-age child care certification not to exceed the licensing fee for a group child care center that provides care and supervision for 9 or more children, plus the costs of required criminal record checks.
- A county or tribal agency shall conduct an inspection of the tract of land on which the home used for child care is located and all buildings and structures on that land, including areas that will not be used for child care.
- A county or tribal agency shall limit certification to one operator for each family residence. This limit is necessary to ensure accurate monitoring of group size and has been departmental policy since 2002.
- A county or tribal agency may require an evaluation and written statement by a physician or licensed mental health professional of any person associated with the care of children or any household resident if the county or tribal agency has reason to believe that the person’s physical or mental health may endanger children in care. The county or tribal agency may deny, suspend, revoke or refuse to renew certification if the evaluation gives the county or tribe reasonable concern that the person’s physical or mental health may endanger children in care.

- The authority for a county or tribal agency to discontinue payment for various violations is repealed from the section on certification denial because it is not an issue of certification. Termination of payment is a subsidy issue that is covered by Chapter DWD 56, relating to the administration of child care funds.
- If a certified family child care operator violates the provisions of this chapter, s. 48.685, Stats, or ch. HFS 12, the county or tribal agency shall require the operator to submit a plan of correction for violation in writing and may forbid the operator to enroll any new children until all violations have been corrected; issue a warning of revocation in writing; or suspend the operator's certification for not more than 60 days. The agency shall either reinstate or revoke the certification by the date that the suspension expires.

Qualifications of child care operators and providers

- A certified child care operator shall demonstrate that he or she is free from tuberculosis test prior to recertification as well as certification.
- The current rule provides that a Level I certified family child care operator shall have completed at least 15 hours of child care training approved by the county or tribal agency responsible for certification. The proposed rule provides that a family child care operator shall have completed at 2 credits of early childhood training or non-credit department-approved training prior to Level I certification.
- Prior to issuing a Level I certification, the county or tribal agency may require that an applicant graduated from high school, obtained a high school equivalency diploma, or obtained a certificate of general education development.
- A substitute who has worked more than 240 hours for a certified family child care operator with a Level I (regular) certification must complete the same early childhood training as the operator. A substitute is a provider who replaces the certified child care operator or staff in a school-age program on a pre-arranged or planned basis.
- The current rule provides that a certified provider shall report immediately to the certifying agency any changes that affect the certified provider's eligibility for certification, including changes in individuals living in the household. The proposed rule provides that a certified child care operator shall report as soon as possible, but no later than the operator's next working day changes that affect eligibility, including the following:
 - Death of a child in care or accident that results in an injury that requires professional medical treatment.
 - Any damage to the premises that may affect compliance with this chapter.
 - Any construction or remodeling of the premises that might have an effect on health and safety of children in care.
 - Convictions, pending charges, or other offenses of the child care operator, household member, or other persons subject to a caregiver background check that could potentially relate to the care of children.
 - Any incident involving law enforcement, including outstanding warrant or child protective services contact.
 - Any inappropriate discipline of a child by a provider, volunteer, or household member, including any incident that results in a child being forcefully shaken or thrown against a hard or soft surface during the child's hours of attendance.
 - Changes in individuals living in the household.

- Changes in hours of operation, phone number, or physical address.
- Upon the hiring of a new employee or volunteer and before the employment or volunteer work commences. A substitute or volunteer must be approved by the certifying agency before employment of volunteer work commences.

Home for providing family child care

- The current rule provides that each floor level used for child care shall have at least one unblocked exit. The proposed rule provides that each floor level used for child care shall have at least 2 exits, all exits shall be clear of obstruction, and the primary exit shall be a door or stairway providing unobstructed travel to the outside at street or ground level. The secondary exit must be either a door or stairway that provides unobstructed travel to the outside at street or ground level; a door or stairway leading to a platform or roof with railings which has an area of at least 25 square feet, is at least 4 feet long, and is not more than 15 feet above 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. If the care is provided in a basement, the primary exit must be a door or stairway that provides unobstructed travel to the outside of the building at street or ground level and the secondary exit must be a door or stairway that provides unobstructed travel 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 home shall have a working carbon monoxide detector.
- The inside temperature of the home may not be less than 67 degrees Fahrenheit. If the inside temperature exceeds 80 degrees Fahrenheit, there must be air circulation with safe fans or other means if the home is not air conditioned.
- The home shall be free of hazards, including recalled products.
- The premises may not have any flaking or deteriorating paint on exterior or interior surfaces in areas accessible for children. Lead-based paint may not be used on any surface on the premises.
- Appliances for food preparation, serving, and clean-up must be kept clean, sanitary, and in good working condition.

Child health care

If a child attending child care or a child care operator's own child has a reportable communicable disease under ch. HFS 145 that is transmitted through normal contact, such as chicken pox, German measles, infectious hepatitis, measles, mumps, scarlet fever, or meningitis, a provider shall notify the local public health officer and parents of all the enrolled children. A child who has or had may not be admitted to certified child care unless the child's parents provide a statement from a physician that the child's condition is no longer contagious or 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 of Health and Family Services.

Supervision

- The child care operator shall have a designated adult who can provide assistance in the event an unexpected emergency. The emergency back-up provider must be at least 18 years of age and able to provide an acceptable level of child care.

- When the children are playing outside, a provider must be outside with the children and provide both sight and sound supervision at all times.
- When a child care operator cares for children in the children's own home, the operator is not required to comply the group size limits and the operator may not care for any children who do not reside in the home.

Activities and equipment

- The proposed rules refine the requirements on activities that providers must plan for children in care based on the Wisconsin Model Early Learning Standards. The proposed rules add new requirements that a provider read to the children at least 15 minutes daily and plan a balance of activities to protect children from excess fatigue and overstimulation.
- The proposed rules create a new subsection on safe indoor and outdoor play equipment. The rules require that:
 - Equipment shall be scaled to the size and developmental level of the children in care.
 - Equipment shall be constructed in a sturdy manner and be in good operating condition with no sharp, rough, loose, or pointed edges.
 - Large, inflatable jumping toys may not be used during hours of child care.
 - Various types of play equipment shall be provided to allow for large and small muscle activity, dramatic play, and intellectual stimulation.
 - Indoor play equipment shall be provided to allow each child a choice of at least 3 activities involving equipment when all children are using equipment.
 - Outdoor play equipment shall be provided to allow each child at least one activity when all children are using equipment at the same time.

Provider and parent communication

The current rules require the provider to develop written information that specifies the charge for child care and the expected frequency of payment for the service. The proposed rules require that the payment information be in a contract that is signed by the child care operator and each child's parent or guardian. The child care operator shall charge the same rates for publicly funded parents and private pay parents.

Prohibited discrimination

The current rule provides that a child care operator may not discriminate on the basis of race, color, sex, sexual orientation, creed, handicap, national origin, or ancestry in accepting children or in the employment of employees. The proposed rules add socioeconomic background as a basis on which child care operators may not discriminate.

School-age child care programs

- The director of a school-age program must have graduated from high school, obtained a high school equivalency diploma, or obtained a certificate of general education development.
- No staff member, volunteer, visitor or parent with symptoms of communicable disease or physical illness, or whose behavior gives a reason to be concerned for the safety of the children, may be allowed on the premises of the program.
- The staff members shall be physically and emotionally able to provide responsible child care.

- The facility inspection report by the Department of Commerce must be filed in the county or tribal agency. The current rule requires the report to be filed in licensing office of the Department of Health and Family Services' regional office.
- The premises shall have no flaking or deteriorating paint on exterior or interior surfaces in areas accessible for children. Lead-based paint may not be used on any surface on the premises.
- The inside temperature may not be less than 67 degrees Fahrenheit.
- If the inside temperature exceeds 80 degrees Fahrenheit, fans must be provided to improve air circulation.
- The certified child care operator shall keep a current, written record of the daily hours of attendance of each child in care, including the actual arrival and departure times for each child. Attendance records shall be kept for at least 3 years.
- A working cellular phone shall be taken on field trips.
- May not hit, spank, pinch, shake or inflict any other form of corporal punishment on a child, or use any discipline which is frightening to the child, including binding or trying to restrict the child's movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.
- Each child and adult being transported in a vehicle with a seating capacity of 15 or fewer shall be seated and properly restrained in an individual seat belt or, for a child under 8 years of age, a child safety restraint system in compliance with s. 347.48 (2m) and (4), Stats as follows:
 - If a child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained in a shoulder-positioning child booster seat.
 - A child under 13 years of age may not ride in the front seat of a vehicle.
- The program shall have a written transportation permission slip signed by a parent or guardian on file.
- No child may be left unattended in a vehicle.

Summary of related federal regulations. There are no applicable federal regulations.

Comparison with rules in adjacent states. Iowa allows child care subsidy payments to be made to a nonregistered family child care home. The Iowa Department of Human Services sends the adult caretaker selected by the parent a pamphlet on minimum health and safety requirements and a payment application. The application must be signed by the provider and returned to the department before payment may be made. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements, including minimum health and safety requirements, limits on the number of children for whom care may be provided, unlimited parental access to the children during hours when care is provided, and conditions that warrant nonpayment.

Illinois allows child care subsidy payments to a day care home exempt from licensing if not more than 3 children are care for, including the provider's own children, unless all children are from the same household. The provider may not have certain criminal convictions or child abuse and neglect findings.

Minnesota allows child care subsidy payments to legal nonlicensed providers who satisfy registration requirements and provide the county with an assurance that the provider is in

compliance with state and local health ordinances and building and fire codes applicable to the premises where child care is provided. A county may conduct criminal history background, county record, and district court record investigations on providers and other persons with access to children in care. A county may deny payment if a the county know a particular provider is unsafe or that the circumstances of the child care arrangement are unsafe. A provider must obtain an immunization record for each child in care within 90 days of starting to care for the child. A provider may not charge child care assistance participants more than families not receiving child care assistance for like services.

Michigan regulates family child care homes for the care of 1 to 6 unrelated children by requiring registration and certification of compliance with applicable rules. The rules require that the registrant have a high school diploma or equivalent, have a written and signed agreement with a responsible person who is 18 years of age or older to provide care during an emergency situation, report to the department within 7 days if any person who care for children or lives in the home has been treated on an inpatient or outpatient basis for an emotional, mental, or substance abuse problem during the last 2 years or if any person has been admitted to or released from a correctional facility. The registrant shall complete no fewer than 10 hours of training each year, shall maintain a file with a statement by a licensed physician that attests to the mental and physical health of all caregivers, and shall retain daily attendance records for 4 years that show arrival and departure times for each child in care. All child care homes shall have at least 2 remotely located exits for every floor level occupied by children. A window may be used as a second exit if, among other things, it is of a size and design to allow for the evacuation of all children and caregiving staff.

Summary of factual data and analytical methodologies. The Department collaborated with the Child Abuse and Neglect Prevention Board and the child care licensing staff of the Department of Health and Family Services to implement the requirement on training to prevent shaken baby syndrome in 2005 Wisconsin Act 165. The proposed rules incorporate the changes required by 2005 Wisconsin Act 106 on using booster seats and other restraints for children under 8 years old in motor vehicles used to transport children. The Department also met with certification workers in county and tribal agencies and with family child care providers represented by AFSCME to discuss suggested rule changes.

Effect of rule on small businesses. The proposed rules will affect small businesses but will not have a significant economic impact on a substantial number of small businesses.

Analysis used to determine effect on small businesses and initial regulatory flexibility analysis. The standards in these rules are intended to protect and promote the health, safety and welfare of children in the care of unlicensed child care providers who receive reimbursement through state or federal funds.

Reporting requirements in the current rule include a general requirement to report any changes that affect the provider's eligibility under this chapter. Providers found this general requirement unclear so the proposed rules specify the important eligibility changes that must be reported to the county or tribal agency.

Bookkeeping requirements in the proposed rules include a requirement that there be a contract for each enrolled child be signed by the child care operator and a parent or guardian, and the operator must have on file a copy of the driver's license for all persons transporting children.

Professional skills include a requirement that a school-age child care operator have a high school diploma or equivalent; all certified family child care operators, employees, and volunteers who provide care and supervision for children under 5 years of age shall receive department-approved training on shaken baby syndrome and appropriate ways to manage crying or fussing children; and all family child care operators and substitutes who have worked at least 240 hours in a Level I (regular) home must take 2 credits of early childhood training or non-credit department-approved training. The T.E.A.C.H. Early Childhood® WISCONSIN Scholarship Program offers scholarship opportunities to teachers, family child care providers, center directors and administrators for credit-based training.

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Place where comments are to be submitted and deadline for submission. Comments may be submitted to Elaine Pridgen, Office of Legal Counsel, Dept. of Workforce Development, P.O. Box 7946, Madison, WI 53707-7946 or elaine.pridgen@dwd.state.wi.us. The comment deadline is August 16, 2007.

SECTION 1. Chapter DWD 55 (title) is amended to read:

DAY CHILD CARE CERTIFICATION

SECTION 2. DWD 55.01 (1) and (2) are amended to read:

DWD 55.01 Authority, purpose and applicability. (1) AUTHORITY AND PURPOSE.

This chapter is promulgated pursuant to ~~s. 46.03 (21), Stats.~~ s. 49.155 (1d), Stats., and implements s. 48.651, Stats. This chapter establishes standards for the certification of persons who provide child care for 1 to 3 children or who are not otherwise required to be licensed as a day child care center under s. 48.65, Stats., and whose services are purchased with state or federal child care funds. The standards are intended to protect and promote the health, safety and welfare of children in the care of these providers.

Note: ~~1997 Wis. Act 27 repealed s. 46.03 (21), Stats.~~

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

SECTION 3. DWD 55.02 (1m) is created to read:

DWD 55.02 (1m) "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 provide child care or have regular contact with children in care.

SECTION 4. DWD 55.02 (2) is repealed and recreated to read:

DWD 55.02 (2) “Certified child care home” or “home” means the residence in which the certified child care operator provides care of children and which meets the standards under s. DWD 55.08 for reimbursement of care by county or tribal agencies.

SECTION 5. DWD 55.02 (3) is amended to read:

DWD 55.02 (3) “Certified day child care operator” or “operator” means an individual, corporation, partnership, ~~or limited liability corporation,~~ non-incorporated association, or cooperative ~~which~~ that has legal and financial responsibility for the operation of a day child care program and for meeting the ~~certification~~ requirements under this chapter.

SECTION 6. DWD 55.02 (3h) is created to read:

DWD 55.02 (3h) “Child care provider” or “provider” means a certified child care operator or an employee or volunteer of the child care operator who provides care and supervision for infant, preschool, or school-age children on behalf of the operator.

SECTION 7. DWD 55.02 (4m) is renumbered DWD 55.02 (3d) and, as renumbered, is amended to read:

DWD 55.02 (3d) “Day Child care certification worker” means a person employed by a county, a governing body of a federally-recognized American Indian tribe, or an agency under contract with a county or tribe whose duties include determination of eligibility for day child care certification.

SECTION 8. DWD 55.02 (5g) and (5r) are created to read:

DWD 55.02 (5g) “Emergency” means unforeseen circumstances that call for immediate

action, such as fire; tornado; flood; extreme outdoor heat or cold; loss of building service, including no heat, water, electricity or telephone; threats to the building or its occupants; lost or missing children; or a provider family situation, such as a medical emergency or illness.

DWD 55.02 (5r)“Employee” means any individual who works for a certified child care operator to provide care and supervision of children in care, including a substitute, helper, or assistant.

SECTION 9. DWD 55.02 (6) is amended to read:

DWD 55.02 (6) “Family ~~day~~ child care center” means a ~~day~~ child care center licensed under s. 48.65, Stats., and ch. HFS 45.

SECTION 10. DWD 55.02 (7) is repealed and recreated to read:

DWD 55.02 (7) “Fit and qualified” means displaying the capacity to successfully nurture and care for children and includes consideration of 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.
- (d) A history of civil or criminal offenses or any other actions that demonstrate an inability to manage the activities of a child care program.

SECTION 11. DWD 55.02 (8) is amended to read:

(8) “Group ~~day~~ child care center” means a ~~day~~ child care center licensed under s. 48.65, Stats., and ch. HFS 46.

SECTION 12. DWD 55.02 (8m), (9g), (9r), and (12m) are created to read:

DWD 55.02 (8m) “Hazard” means a source of danger that could jeopardize the health, safety or well-being of children in care.

DWD 55.02 (9g) “In care” means a child care provider is responsible for supervision of the child or children.

DWD 55.02 (9r) “Inclement weather” means stormy or severe weather, including any of the following:

- (a) Heavy rain.
- (b) Temperatures above 90 degrees Fahrenheit.
- (c) Wind chills of 0 degrees Fahrenheit or below for children age 2 and above.
- (d) Wind chills of 20 degrees Fahrenheit or below for children under age 2.

DWD 55.02 (12m) “Operator’s own children” means a certified family child care operator’s natural, adopted, step, and foster children, and any children who reside in the operator’s home.

SECTION 13. DWD 55.02 (15) is repealed and recreated to read:

DWD 55.02 (15) “Premises” means the tract of land on which the home used for child care is located, including all buildings and structures on that land.

SECTION 14. DWD 55.02 (17) is repealed.

SECTION 15. DWD 55.02 (20) is amended to read:

DWD 55.02 (20) “School-age ~~day~~ child care program” means a program providing care and supervision in other than a ~~provider’s~~ operator’s home for ~~less~~ fewer than 24 hours a day for 7 or more school-age children and which is exempt from being licensed as a ~~day~~ child care center under s. 48.65 (1), Stats.

SECTION 16. DWD 55.02 (20c), (20g), (20n), (20r), and (20w) are created to read:

DWD 55.02 (20c) “Shaken baby syndrome” means a severe form of brain injury that occurs when an infant or young child is shaken forcibly enough to cause the brain to rebound against his or her skull.

DWD 55.02 (20g) “Substitute” means a provider who replaces the certified child care operator or staff in a school age program on a pre-arranged or planned basis.

DWD 55.02 (20n) “Sudden infant death syndrome” 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.

DWD 55.02 (20r) “Supervision” means guidance of the behavior and activities of children for their health, safety, and well-being by a provider who is within sight or sound of the children, except as specified in s. DWD 55.08 (5) (j).

DWD 55.02 (20w) “Suspension” means a temporary interruption in the regulatory approval during which the certified child care operator may not be paid by the child care subsidy program.

SECTION 17. DWD 55.02 (22) is repealed and recreated to read:

(22) “Volunteer” means a person who agrees to give time, with or without compensation, to transport or to work with children in care.

SECTION 18. DWD 55.04 (1) and (2) are amended to read:

DWD 55.04 Certification. (1) BASIS FOR CERTIFICATION. In order to be certified, a day child care provider operator shall be exempt from ~~having to be licensed under the licensure requirement in s. 48.65, Stats.,~~ and shall comply with the appropriate standards for the type of

certified ~~provider~~ operator that are specified in this ~~subchapter~~ chapter.

(2) TYPES OF CERTIFIED ~~PROVIDERS~~ OPERATORS. The following types of ~~day child~~ care ~~providers~~ operators shall be certified as a condition for receiving state or federal child care funds:

(a) ~~Family day Certified family child care providers operators and in-home providers operators~~. Family day Certified family child care and in-home ~~providers operators~~ are required to meet the standards under s. DWD 55.08 and may care for infant, preschool, ~~children~~ or school-age children ~~or a combination of preschool and school-age children~~ consistent with Table 55.08 (6).

(b) ~~School-age day child care programs~~. School-age day child care programs are required to meet the standards under s. DWD 55.09.

SECTION 19. DWD 55.04 (3) (b) and (3) (c) (note) are repealed.

SECTION 20. DWD 55.04 (3) (e) is repealed and recreated to read:

DWD 55.04 (3) (e) Approval. The county or tribal agency shall issue a child care certification to an applicant within 60 days after determining that the applicant is fit and qualified and the applicable standards in s. DWD 55.08 or 55.09 are in compliance.

SECTION 21. DWD 55.04 (3) (f) is created to read:

DWD 55.04 (3) (f) The certification agency may backdate a certificate of approval to the date that the county or tribal agency received the child care operator's completed application for certification.

SECTION 22. DWD 55.04 (4) is renumbered DWD 55.04 (4) (a) and, as renumbered, is

amended to read:

DWD 55.04 (4) CERTIFICATION FEE. (a) A county or tribal agency may charge a fee for ~~day~~ family child care certification not to exceed 150 percent of the licensing fee for a ~~day~~ family child care center that provides care and supervision for 4 to 8 children, under s. 48.65 (3) (a), Stats., plus the costs of criminal record checks required under s. ~~48.651(2)~~, 48.685 Stats.

Note: ~~1997 Wis. Act 27 repealed s. 48.651 (2), Stats.~~

SECTION 23. DWD 55.04 (4) (b) is created to read:

DWD 55.04 (4) (b) The county or tribal agency may charge a fee for school-age child care certification not to exceed the licensing fee for a group child care center that provides care and supervision for 9 or more children under s. 48.65 (3)(a), Stats., plus the costs of criminal record checks required under s. 48.685 Stats.

SECTION 24. DWD 55.04 (5) (title), (5) (a), (5) (b), (6) (b), (7) (a), (7) (b) 1., (7) (b) 2. a., and (7) (b) 2. b. are amended to read:

DWD 55.04 (5) (title) CATEGORIES OF FAMILY CERTIFICATION.

DWD 55.04 (5) (a) *Level I (regular) certification.* Level I (regular) certification may be issued only after the ~~provider~~ child care operator has demonstrated compliance with all certification standards including training. Level I (regular) certification shall be for a period of 2 years and shall be renewed upon application if the ~~provider~~ operator continues to comply with the certification standards under s. DWD 55.08 ~~or 55.09~~.

DWD 55.04 (5) (b) *Level ~~II (provisional)~~ II (provisional) certification.* Level II (provisional) certification may be issued only after the ~~provider~~ child care operator has demonstrated compliance with all certification standards under s. DWD 55.08, except standards for training

under s. DWD 55.08 (1) (b). Level II (provisional) certification shall be for a period of 2 years and shall be renewed upon application if the ~~provider~~ operator continues to comply with the certification standards, except standards for training under s. DWD 55.08 (1) (b).

DWD 55.04 (7) COMPLIANCE. (a) *Qualifications of ~~providers~~ certified child care operators.* County and tribal agencies shall maintain records demonstrating ~~provider~~ child care operator compliance with s. DWD 55.08 (1).

DWD 55.04 (7) (b) Compliance with other standards. 1. 'General.' County and tribal agencies shall help assure ~~provider~~ operator compliance with s. DWD 55.08 (2) to (12) in accordance with this paragraph.

DWD 55.04 (7) (b) 2. a. Require receipt of a signed application from the ~~provider~~ operator agreeing to follow ~~day~~ child care certification standards.

DWD 55.04 (7) (b) 2. b. Provide a checklist of basic ~~day~~ child care certification standards and procedures for filing a complaint to all parents who are using certified family ~~day~~ child care or in-home care and who are publicly funded parents.

SECTION 25. DWD 55.04 (7) (b) 2. bm. is created to read:

DWD 55.04 (7) (b) 2. bm. Require the applicant and any employees, volunteers, and non-client residents 10 years of age or older to submit a background information disclosure form prior to initial certification and every following 2 years.

SECTION 26. DWD 55.04 (7) (b) 2. c., d., e., and f. are amended to read:

DWD 55.04 (7) (b) 2. c. Provide information on child care and the certification system to applicants prior to initial certification. The information shall include materials on sudden infant death syndrome, shaken baby syndrome, child development, positive discipline, health and

safety, and nutrition.

DWD 55.04 (7) (b) 2. d. Conduct an on-site inspection of the ~~place~~ premises where child care will be provided, including areas that will not be used for child care, before ~~certification or~~ within 30 days following initial certification, recertification, or within 30 days following a ~~provider's~~ child care operator's move to a new location.

DWD 55.04 (7) (b) 2. e. Check the criminal record history of applicants for certification, employees and prospective employees, volunteers, and adults and certain individuals 10 years of age and older who are living in the applicant's home as specified in s. 48.651(2), Stats. 48.685 (2) (am), Stats.

~~**Note:** 1997 Wis. Act 27 repealed s. 48.651 (2), Stats.~~

DWD 55.04 (7) (b) 2. f. Check files on child abuse and neglect findings or pending investigations related to applicants, employees and prospective employees ~~including substitutes,~~ volunteers, and ~~for~~ individuals 10 years of age and older who are living in the applicant's home.

SECTION 27. DWD 55.04 (7) (b) 2. g. is repealed and recreated to read:

DWD 55.04 (7) (b) 2. g. Limit certification to one operator for each family residence.

SECTION 28. DWD 55.04 (7) (b) 3. a., b. c., and d. are amended to read:

DWD 55.04 (7) (b) 3. a. Conduct on-site inspections at any time prior to or after certification is approved to monitor compliance with certification standards, in addition to the required inspection under subd. 2. d.

DWD 55.04 (7) (b) 3. b. Make certification available to all family ~~day~~ child care providers, whether or not public funding is involved.

DWD 55.04 (7) (b) 3. c. Request that all parents whose children are cared for by a certified

~~provider under this subchapter~~ family child care operator complete the answers to questions on the checklist and return the checklist provided under subd. 2. b.

DWD 55.04 (7) (b) 3. d. ~~Update provider~~ Require the certified child care operator to submit references at initial certification and at certification renewal.

SECTION 29. DWD 55.04 (7) (b) 3. e. is created to read:

DWD 55.04 (7) (b) 3. e. Require an evaluation and written statement by a physician or licensed mental health professional of any person associated with the care of children or any household resident if the county or tribal agency has reason to believe that the person's physical or mental health may endanger children in care.

SECTION 30. DWD 55.04 (7) (b) 4. is repealed.

SECTION 31. DWD 55.04 (9) is amended to read:

DWD 55.04 (9) CERTIFICATION DECISION AFTER BACKGROUND REVIEW. The county or tribal agency shall conduct background reviews in accordance with s. 48.685, Stats. For guidance in resolving issues that arise in particular cases, the county or tribal agency shall follow ch. HFS 12, and the crimes table incorporated into ch. HFS 12, and shall apply the standards that apply to licensed ~~day~~ child care facilities.

SECTION 32. DWD 55.05 (1), (1) (note), and (2) are amended to read:

DWD 55.05 Criminal history and child abuse record search. (1) The county or tribal agency shall follow the requirements for criminal history and child abuse record search that are contained in s. 48.685, Stats., and ch. HFS 12, and the crimes table incorporated into ch. HFS 12, and shall apply the standards that apply to licensed ~~day~~ child care facilities, except the county or tribal agency shall require any prospective or current employee, contractor under the control of

the certified ~~day child care provider operator, volunteer, or non-client resident who has or is expected to have access to clients~~ individuals 10 years of age and older who are living in the child care operator's home to submit the completed background information form to the county or tribal agency prior to initial certification and recertification. In applying the provisions relating to rehabilitation decisions, all decisions and review procedures shall be made and conducted by the county or tribal agency.

Note: Detailed information on ch. HFS 12, Wis. Adm. Code, may be obtained by calling the ~~Office of Child Care at (608) 266-9703~~ DWD Child Care Section at (608) 267-6317 (option 2) or by sending a written request to the ~~Office of Child Care~~ DWD Child Care Section at P.O. Box 7935 7932, Madison WI 53707. In addition, the DHFS requirements are posted by the Department of Health and Family Services at the following web site address: ~~<http://www.dhfs.state.wi.us/caregiver/index.htm>~~ http://dhfs.wisconsin.gov/rl_dcf/CBC.HTM.

DWD 55.05 (2) Each county or tribal agency shall maintain its records concerning each person whose certificate is denied, revoked, or not renewed for a reason specified in s. 48.685 (4m) (a) 1. to 5., Stats. The county or tribal agency shall report this information to the department's ~~office of child care~~ child care section. The county or tribal agency shall immediately report the receipt of an application for rehabilitation review and the results of each rehabilitation review to the office of legal counsel of the department of health and family services.

SECTION 33. DWD 55.05 (3) is repealed.

SECTION 34. DWD 55.06 (1) (intro.), (1) (a), (1) (b), (1) (d), (1) (e), (1) (g), and (1) (h) are amended to read:

DWD 55.06 Certification denial. (1) The county or tribal agency may deny, suspend, revoke or refuse to renew certification ~~and discontinue payment for care~~ if any of the following apply:

(a) The ~~provider~~ child care operator is not in compliance with certification standards under s. DWD 55.08 or 55.09, as appropriate.

(b) The ~~provider's~~ child care operator's references or other community information does not support the ~~provider's~~ operator's declaration that he or she is able to provide an acceptable level of child care.

(d) The ~~provider~~ child care operator submits false attendance records to the child care subsidy administrative agency.

(e) The ~~provider~~ child care operator fails to cooperate with the certifying agency.

(g) The ~~provider~~ child care operator misrepresents or withholds information.

(h) The ~~provider~~ child care operator or an employee or volunteer denies the day care certification worker access to the premises to monitor compliance with the certification standards.

SECTION 35. DWD 55.06 (1) (i) and (j) are created to read:

DWD 55.06 (1) (i) The child care operator, an employee, a volunteer, or any other person having regular contact with the children in care is 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 program.

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

DWD 55.06 (1) (j) The evaluation under s. DWD 55.04 (7) (b) 3. e. gives the county or tribal agency reasonable concern that the person's physical or mental health may endanger children in care.

SECTION 36. DWD 55.06 (2), (3), and (4) are amended to read:

DWD 55.06 (2) The certifying agency shall require a ~~provider~~ child care operator to submit a new application for certification if the ~~provider's~~ operator's previous certification was denied, revoked, or not renewed for a reason in s. DWD 55.05 or s. DWD 55.06 (1). The certifying agency may refuse to accept a new application for 2 years after the date of the denial, revocation, or refusal to renew the certification.

DWD 55.06 (3) A ~~provider~~ child care operator whose certification has been revoked twice for noncompliance with the certification standards in s. DWD 55.08 or 55.09 shall be permanently barred from certification.

DWD 55.06 (4) If a county or tribal agency denies, suspends, revokes or refuses to renew a certification, the county or tribal agency shall notify the ~~provider~~ child care operator in writing and give reasons for the action. The action is reviewable pursuant to ch. 68, Stats., which provides for administrative review of the decisions of local agencies. Tribal agencies shall use an appeal process equivalent to the process in ch. 68, Stats.

SECTION 37. DWD 55.065 is created to read:

DWD 55.065 Sanctions. If a certified family child care operator violates the provisions of this chapter, s. 48.685, Stats, or ch. HFS 12, the county or tribal agency shall require the operator to submit a plan of correction for violation in writing and may impose any or all of the following sanctions:

- (1) Forbid the operator to enroll any new children until all violations have been corrected.
- (2) Issue a warning of revocation in writing.
- (3) Suspend the operator's certification for not more than 60 days. The agency shall either reinstate or revoke the certification by the date that the suspension expires.

SECTION 38. DWD 55.07 is amended to read:

DWD 55.07 Complaints. Within 10 working days after a county or tribal agency receives a complaint ~~by telephone, letter or personal contact~~ about a certified day child care provider program, the county or tribal agency shall investigate that complaint.

SECTION 39. DWD 55.08 (title), (1) (a) 3., and (1) (b) 1. are amended to read:

DWD 55.08 (title) Standards for family day child care and in-home day child care.

DWD 55.08 (1) (a) 3. A ~~provider~~ family child care operator shall demonstrate that he or she is free from tuberculosis prior to certification and recertification. The agency may accept results of a test administered up to 12 months before the application date.

DWD 55.08 (1) (b) Training. 1. ‘Level I (regular) and Level II (provisional).’ All ~~providers~~ certified family child care operators and all employees and volunteers of a ~~provider~~ certified family child care operator who provide care and supervision for children under one year of age shall receive training in the most current medically accepted methods of preventing sudden infant death syndrome. All certified family child care operators, employees, and volunteers who provide care and supervision for children under 5 years of age shall receive department-approved training on shaken baby syndrome and appropriate ways to manage crying or fussing children before the date on which the ~~provider~~ child care operator is certified or the employment or volunteer work commences.

SECTION 40. DWD 55.08 (1) (b) 1. (note) is created to read:

Note: A provider shall take or shall have taken a department-approved, stand-alone course on shaken baby syndrome or the non-credit, department-approved courses entitled *Introduction to the Child Care Profession (Module A)* or *Fundamentals of Infant and Toddler Care* after July 1, 2005, to comply with the shaken baby syndrome training requirement. Contact Child Care Resource and Referral at 1/888-713-5437 for further information on these classes.

SECTION 41. DWD 55.08 (1) (b) 2. (intro.) and (1) (b) 2. a. are amended to read:

DWD 55.08 (1) (b) 2. ‘Level I (regular).’ The following apply to Level I (regular) certified ~~providers~~ family child care operators:

a. A Level I (regular) certified ~~provider~~ family child care operator under s. DWD 55.04 (5) (a) shall have completed at least ~~15 hours of child care training approved by the department~~ 2 credits of early childhood training or non-credit ~~or tribal agency responsible for certification~~ department-approved training prior to Level I (regular) certification. ~~The training shall include information on child growth and development, positive discipline, child abuse and neglect, interpersonal relationships, daily schedule, health and safety, sudden infant death syndrome, business practices, and nutrition.~~

SECTION 42. DWD 55.08 (1) (b) 2. a. (note), (1) (b) 2. c., and (1) (b) 2. d. are created to read:

DWD 55.08 (1) (b) 2. a. Note: The non-credit courses entitled *Introduction to the Child Care Profession (module A)* and *Fundamentals of Family Child Care*, together, meet the training requirements for Level I certification. Contact Child Care Resource and Referral at 1-888-713-5437 for further information on these classes. Other non-credit courses must be approved by the department.

Credit-based courses used to meet the Level I entry level training requirements must be at least 2 credits and broad in approach, such as an introductory child development, child psychology, or early childhood education course.

The T.E.A.C.H. Early Childhood® WISCONSIN Scholarship Program offers scholarship opportunities to teachers, family child care providers, center directors and administrators for credit-based training. For further information, contact Wisconsin Early Childhood Association, 744 Williamson Street, Suite 200, Madison, WI 53703. Phone: 608-240-9880 or 1-800-783-9322. Fax: 608-240-9890. Website: <http://www.wecanaeyc.org>.

DWD 55.08 (1) (b) 2. c. Prior to issuing a Level I (regular) certification, the county or tribal agency may require that an applicant graduated from high school, obtained a high school equivalency diploma under s. 115.29 (4), Stats., or obtained a certificate of general education development under s. PI 5.04.

DWD 55.08 (1) (b) 2. d. A substitute who has worked more than 240 hours for a certified family child care operator with a Level I (regular) certification shall comply with the training

requirements in subd. 1. and 2. b.

SECTION 43. DWD 55.08 (1) (c) is repealed and recreated to read:

DWD 55.08 (1) (c) *Reporting changes.* A certified family child care operator shall report as soon as possible, but no later than the operator's next working day, to the county or tribal agency any changes that affect the certified family child care operator's eligibility for certification under this chapter, including the following:

1. Death of a child in care or accident that results in an injury that requires professional medical treatment.
2. Any damage to the premises that may affect compliance with this chapter.
3. Any construction or remodeling of the premises that might have an effect on health and safety of children in care.
4. Convictions, pending charges, or other offenses of the child care operator, household member, or other persons subject to a caregiver background check that could potentially relate to the care of children.
5. Any incident involving law enforcement, including outstanding warrant or child protective services contact.
6. Any inappropriate discipline of a child by a provider, volunteer, or household member, including any incident that results in a child being forcefully shaken or thrown against a hard or soft surface during the child's hours of attendance.
7. Changes in individuals living in the household.
8. Changes in hours of operation, phone number, or physical address.
9. Upon the hiring of a new employee or volunteer and before the employment or volunteer work commences.

SECTION 44. DWD 55.08 (1) (d) and (e) are created to read:

DWD 55.08 (1) (d) *Substitutes, employees, and volunteers.* A substitute, employee, or volunteer for a Level I or II provider shall be approved by the certifying agency before employment or volunteer work commences.

DWD 55.08 (1) (e) *Administration.* A certified family child care operator shall do all of the following:

1. Comply with all local and state laws governing the certified child care program and its operation and ensure that all employees and volunteers comply with these laws.
2. Comply with all requirements in this chapter.
3. Ensure that all information provided to the county or tribal agency is current and accurate.
4. Permit a child care certification worker to conduct home inspections to monitor compliance with certification standards in this chapter.

SECTION 45. DWD 55.08 (2) (title) and (intro.) are amended to read:

DWD 55.08 (2) (title) and (intro.) THE HOME FOR PROVIDING FAMILY ~~DAY~~ CHILD CARE. A provider's certified child care home and outside play areas shall meet the following requirements:

SECTION 46. DWD 55.08 (2) (a) is repealed and recreated to read:

DWD 55.08 (2) (a) Exits to the home shall comply with the following:

1. All exits shall be clear of obstruction.
2. Each floor or level used for child care shall have at least 2 exits.
3. The primary exit shall be a door or a stairway providing unobstructed travel to the outside of the building at street or ground level.

4. 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 which has an area of at least 25 square feet, is at least 4 feet long, and is not more than 15 feet above the ground level.

c. 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.

5. If the 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 a door or stairway that provides unobstructed travel 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.

SECTION 47. DWD 55.08 (2) (am) is created to read:

DWD 55.08 (2) (am) The home shall have a working carbon monoxide detector and each floor level shall have a working smoke detector.

SECTION 48. DWD 55.08 (2) (b) is renumbered (2)(b)(intro.) and, as renumbered, is amended to read:

DWD 55.08 (2) (b) All areas used for child care shall have adequate and safe heat, light and ventilation, including the following:

SECTION 49. DWD 55.08 (2) (b) 1. and 2. are created to read:

DWD 55.08 (2) (b) 1. The inside temperature of the home may not be less than 67 degrees Fahrenheit.

DWD 55.08 (2) (b) 2. If the inside temperature exceeds 80 degrees Fahrenheit, a provider shall provide for air circulation with safe fans or other means, if the home is not air conditioned.

SECTION 50. DWD 55.08 (2) (c) (intro.) is amended to read:

DWD 55.08 (2) (c) (intro.) The home shall be free of hazards ~~and items~~, including any recalled products. Items that shall be kept inaccessible to the children include, but are not limited to, the following:

SECTION 51. DWD 55.08 (2) (c) (note) is created to read:

DWD 55.08 (2) (c) (note) Note: Lists of recalled products are available on the Department of Agriculture, Trade and Consumer Protection website at <http://datcp.state.wi.us/core/consumerprotection/consumerprotection.jsp> or by contacting the United States Consumer Safety Commission at 1-800-638-2772.

SECTION 52. DWD 55.08 (2) (e) (intro.), (2) (e) 2., (2) (f), (2) (j), (2) (k), and (2) (L) are amended to read:

DWD 55.08 (2) (e) (intro.) Outdoor play areas shall be free of hazards and shall be fenced or the ~~provider~~ child care operator shall take special measures to ensure the safety of the children, including the following:

DWD 55.08 (2) (e) 2. In-ground pools, on-ground pools ~~with rigid sides~~, hot tubs, and large outdoor trampolines may not be used during hours of care and shall be inaccessible to children by use of a permanent barrier or other preventive measure.

DWD 55.08 (2) (f) Pets that are kept in the home shall be tolerant of children and appropriately vaccinated against rabies. Rabies vaccination shall be documented with a current

certificate from a veterinarian. Pets that may pose any risk to the children shall be restricted from indoor and outdoor areas used for ~~day~~ child care.

DWD 55.08 (2) (j) Bathrooms, including toilets, sinks and potty chairs, shall be clean and in good working condition. Items listed in par. (c) may not be stored in a bathroom that is used by children in care.

DWD 55.08 (2) (k) When a public water supply is not available, the water shall be tested and found to be bacteriologically safe and to have safe nitrate levels by a laboratory certified under 42 CFR 493 (CLIA) prior to ~~or within 3 months~~ of initial certification and at least every following 2 years.

DWD 55.08 (2) (L) Areas, equipment, utensils, and appliances for food preparation, serving and clean-up shall be kept clean, ~~and~~ sanitary, and in good working condition.

SECTION 53. DWD 55.08 (2) (p) is created to read:

DWD 55.08 (2) (p) The premises may not have any flaking or deteriorating paint on exterior or interior surfaces in areas accessible for children. Lead-based paint may not be used on any surface on the premises.

SECTION 54. DWD 55.08 (3) and (4) (a) (intro.), (c), (e), (f), (g), (h), (i), and (j) are amended to read:

DWD 55.08 (3) THE HOME FOR PROVIDING IN-HOME CARE. When a ~~provider~~ child care operator cares for children in the children's own home, the ~~provider~~ operator shall comply with requirements in sub. (2) (c), (e), (L) and (n), but the ~~provider~~ operator is not required to comply with requirements in sub. (2) (a), (am), (b), (d), (f), (g), (i), (j), (k), ~~and~~ (m), (o), and (p).

DWD 55.08 (4) CHILD HEALTH CARE. (a) Except as provided under pars. (c) and (d), a

certified ~~provider~~ child care operator shall have a current report of a physical examination on file for each child, including ~~each provider's child~~ the operator's own children in care, as follows:

DWD 55.08 (4) (c) The requirement under par. (a) does not apply to a ~~provider~~ child care operator who requests from the county or tribal agency in writing an exemption for a child based upon adherence by the child's parent to religious belief in exclusive use of prayer or spiritual means for healing.

DWD 55.08 (4) (e) The ~~provider~~ child care operator shall have on file a written record verifying that each child in care has been immunized in accordance with s. 252.04, Stats., and ch. HFS 144.

DWD 55.08 (4) (f) ~~The~~ A provider may administer medication to a child only in accordance with written and signed permission from the child's parent.

DWD 55.08 (4) (g) ~~The~~ A provider shall wash his or her hands with soap and warm running water after toileting, prior to food preparation, and after diapering children.

DWD 55.08 (4) (h) ~~The~~ A provider shall require all children in the provider's care to wash their hands with soap and warm running water before eating and after toileting.

DWD 55.08 (4) (i) ~~The~~ A provider shall change a child's diaper on an easily cleanable surface that is cleaned with soap and water and a disinfectant solution after each use.

DWD 55.08 (4) (j) ~~The~~ A provider shall clean a child's superficial wound with soap and water only and protect it with a band-aid or bandage.

SECTION 55. DWD 55.08 (4) (k) and (4) (k) (note) are created to read:

DWD 55.08 (4) (k) A provider shall comply with the following requirements regarding a child with a communicable disease:

1. If a child attending certified child care or a child care operator'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, a provider shall notify the local public health officer and parents of all the enrolled children.

2. A child who has or had a reportable communicable disease under ch. HFS 145 may not be admitted to certified child care unless the child's parents provide a statement from a physician that the child's condition is no longer contagious or 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 of health and family services.

Note: The Division of Public Health within the Department of Health and Family Services has developed materials that identify those communicable diseases that are required to be reported to a local public health officer. These materials also provide information on the symptoms of each disease and guidance on how long an infected child must be excluded from child care. The materials include a communicable disease chart and exclusion guidelines for child care programs. Copies of the communicable disease chart or the exclusion guidelines for child care are available from the Child Care Information Center at 1-800-362-7353.

SECTION 56. DWD 55.08 (5) (a), (b), (d), and (e) are amended to read:

DWD 55.08 (5) SUPERVISION. (a) ~~The~~ A provider may not be engaged in any other activity or occupation during the hours of operation which interferes with the adequate care and supervision of children.

DWD 55.08 (5) (b) ~~The~~ A provider shall be awake whenever the children in care are awake.

DWD 55.08 (5) (d) ~~The provider~~ child care operator shall ensure that each child has adult supervision at all times.

DWD 55.08 (5) (e) ~~The provider~~ child care operator shall ensure that no person under 18 years of age is left in sole charge of the children.

SECTION 57. DWD 55.08 (5) (em) is created to read:

DWD 55.08 (5) (em) The child care operator has a designated adult who can provide assistance in the event an unexpected emergency. The emergency back-up provider is at least 18

years of age and can provide an acceptable level of child care.

SECTION 58. DWD 55.08 (5) (f), (g), (h), and (i) are amended to read:

DWD 55.08 (5) (f) The ~~provider~~ child care operator and any other adult working with children may not consume or be under the influence of alcoholic beverages or any non-prescribed controlled substance specified in ch. 961, Stats., during the hours of operation.

DWD 55.08 (5) (g) No person in the certified home of a ~~provider~~ may consume or be under the influence of alcoholic beverages or any non-prescribed controlled substance specified in ch. 961, Stats., during the hours of operation in the presence of children.

DWD 55.08 (5) (h) A ~~provider~~ child care operator may not allow any person whom the ~~provider~~ operator determines to be a threat to the health or safety of the children to have contact with the children in the ~~provider's~~ operator's care.

DWD 55.08 (5) (i) The ~~provider~~ child care operator shall keep a current written record of the daily hours of attendance of each child in care, including the actual arrival and departure ~~time~~ times for each child. Attendance records shall be kept for at least 3 years.

SECTION 59. WD 55.08 (5) (j) is created to read:

DWD 55.08 (5) (j) When the children are playing outside, a provider shall be outside with the children and shall provide both sight and sound supervision at all times.

SECTION 60. DWD 55.08 (6) (a) is repealed and recreated to read:

DWD 55.08 (6) (a) No certified family child care program may have more than 3 children under 7 years of age who are not related to the child care operator in care at any given time.

SECTION 61. DWD 55.08 (6) (b) (intro.) is repealed and recreated to read:

DWD 55.08 (b) (intro.) No certified family program may have more than 6 children in care, including children related to the operator, except that:

SECTION 62. DWD 55.08 (6) (c) and (d) are amended to read

DWD 55.08 (6) (c) A ~~provider's~~ child care operator's natural, adopted, step, or foster children 7 years of age or older or any child 7 years and older residing in the operator's home are not counted in determining the maximum number of children allowed under par. (b).

DWD 55.08 (6) (d) The maximum number of children that ~~the provider~~ may be in care for is shown in Table 55.08 (6) ~~A and B~~.

SECTION 63. DWD 55.08 (6) (e) is created to read:

DWD 55.08 (6) (e) When a child care operator cares for children in the children's own home, the following apply:

1. The operator is not required to comply with pars. (a) and (b).
2. The operator may not care for any children who do not reside in the home.

SECTION 64. Table 55.08 (6) is amended to read:

Table 55.08 (6)			
MAXIMUM NUMBER OF CHILDREN IN CERTIFIED DAY <u>CHILD</u> CARE			
<u>Related or Operator's Own Children Under 7 years of Age</u>	Non-related Children Under 7 years of age	Additional Children Ages 7 and older	Maximum Number of Children*
0	3	Additional children ages 7 through 12 (if special needs up to	6
1	3		6
2	3		6

3	3	19) may be cared for as long as the maximum total number of children is not exceeded.	6
4	2		6
5	1		6
6	0		6

WHEN CHILDREN UNDER THE AGE OF 2 YEARS ARE PRESENT	
Number of Children Under 2 Years of Age	Maximum Number of Children*
0	6
1	6
2	6
3	5
4	4

*The maximum number does not include the ~~provider's~~ child care operator's natural, adopted, step or foster children 7 years of age and older or any children 7 and older who live in the residence.

Note: Under s. 48.65 (1), Stats., if a provider takes care of 4 or more children under the age of 7 who are not related to the provider, for compensation, the provider must obtain from the department of health and family services a license to operate a ~~day~~ child care center.

SECTION 65. DWD 55.08 (7) (intro.) and (b) are amended to read:

DWD 55.08 (7) (intro.) PROVIDER INTERACTIONS WITH CHILDREN. The A provider shall interact with the children in a caring and positive manner and:

DWD 55.08 (7) (b) May not hit, spank, pinch, shake, slap, throw, or inflict any other form of corporal punishment on the child, or use any discipline that is frightening to the child, including binding or trying to restrict the child's movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.

SECTION 66. DWD 55.08 (8) is repealed and recreated to read:

DWD 55.08 (8) ACTIVITIES (a) A child care provider shall plan activities so that each child may be or do all the following:

1. Be successful and feel good about himself or herself.
2. Use and develop language.
3. Use large and small muscles.
4. Learn new ideas and skills.
5. Participate in imaginative play.

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

1. Daily indoor and outdoor activities, 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 overstimulation.
4. Individual and group activities.
5. At least 15 minutes reading to the children daily.
6. Opportunities for a non-walking child who can creep or crawl to move freely in a safe, clean, open, warm, and uncluttered area each day.

(c) A provider may use television only to supplement the daily plan for children. No child may be required to watch television.

Note: For further information, see the Wisconsin Model Early Learning Standards. These voluntary standards are designed to help providers 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.

SECTION 67. DWD 55.08 (8m) is created to read:

DWD 55.08 (8m) EQUIPMENT (a) Safe indoor and outdoor play equipment shall be provided as follows:

1. Equipment shall be scaled to the size and developmental level of the children in care.

2. Equipment shall be constructed in a sturdy manner and be in good operating condition with no sharp, rough, loose, or pointed edges.

3. Large, inflatable jumping toys may not be used during hours of child care.

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

SECTION 68. DWD 55.08 (9) (intro.) and (9) (a) are amended to read:

DWD 55.08 (9) (intro.) TRANSPORTATION. When transporting children the ~~provider~~ child care operator shall ensure that:

DWD 55.08 (9) (a) The driver of the vehicle holds a valid ~~operator's~~ driver's license. The child care operator shall have a copy of the driver's license on file.

SECTION 69. DWD 55.08 (9) (a) (note) is created to read:

DWD 55.08 (9) (a) (note) Note: Information on an individual's driving record is available by calling the Division of Motor Vehicles at (608) 261-2566 or through the website <http://www.dot.wisconsin.gov/drivers/drivers/points/abstract.htm>.

SECTION 70. DWD 55.08 (9) (c) is renumbered DWD 55.08 (9) (c) (intro.) and, as renumbered, is amended to read:

DWD 55.08 (9) (c) (intro.) Each child is seated and properly restrained in an individual seat belt or, for a child under 4 8 years of age, a child safety restraint system, in compliance with s. 347.48 (2m) and (4), Stats., as follows:

SECTION 71. DWD 55.08 (9) (c) 1., 2., 3., and 4. are created to read:

1. If the child is less than one year old or weighs less than 20 pounds, the child shall be properly restrained in a rear-facing individual child care safety seat.

2. Subject to 1., if the child is at least 1 year old and weighs at least 20 pounds but less than 4 years old or weighs less than 40 pounds, the child shall be properly restrained in a forward-facing individual child car safety seat.

3. If the child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly restrained in a shoulder-positioning child booster seat.

4. Children under age 13 years may not ride in the front seat of a vehicle.

SECTION 72. DWD 55.08 (9) (d), (10) (intro.), (11) (intro.), (12) (intro.), (12) (c), (12) (g), (12) (h), and (12) (i) are amended to read:

DWD 55.08 (9) (d) A written transportation permission slip signed by a parent or guardian is on file.

DWD 55.08 (10) (intro.) MEALS AND SNACKS. The ~~provider~~ child care operator shall ensure that each child receives proper nourishment while in ~~day~~ child care as follows:

DWD 55.08 (11) (intro.) REST. The ~~provider~~ child care operator shall ensure that each child has a clean, comfortable and safe place to rest as follows:

DWD 55.08 (12) (intro.) PROVIDER AND PARENT COMMUNICATION. The ~~provider~~ child care operator shall be in ongoing communication with a child's parent or ensure that a substitute provider is in ongoing communication with a child's parent by:

DWD 55.08 (12) (c) Developing a written ~~information~~ contract that specifies the charge for child care and the expected frequency of payment for the service. A contract for each enrolled child shall be signed by the child care operator and a parent or guardian. The child care operator shall charge the same rates for publicly funded parents and private pay parents.

DWD 55.08 (12) (g) Using information obtained on the department–provided “~~day~~ child care intake for child under 2 years” form, which collects essential information for infants and toddlers, to individualize the program of care for each child under 2 years of age.

DWD 55.08 (12) (h) Informing a child's parent of any disciplinary action taken or any injury to the child that occurred during ~~day~~ child care hours.

DWD 55.08 (12) (i) Informing the parent in writing whether the premises are covered by a ~~day~~ child care liability insurance policy.

SECTION 73. DWD 55.08 (12) (j) is created to read:

DWD 55.08 (12) (j) Notifying a parent if his or her child has been exposed to a diagnosed or suspected communicable disease reportable under ch. HFS 145 and transmitted through normal contact.

SECTION 74. DWD 55.08 (13) is amended to read:

DWD 55.08 (13) DISCRIMINATION PROHIBITED. The ~~provider~~ child care operator shall not discriminate on the basis of race, color, sex, sexual orientation, creed, handicap, socio-economic background or national origin or ancestry in accepting children or in the employment of employees.

SECTION 75. DWD 55.08 (15) is repealed.

SECTION 76. DWD 55.09 (1) is amended to read:

DWD 55.09 (1) CONDITIONS FOR CERTIFICATION. School-age ~~day~~ child care programs shall meet the standards set out in this section in order to be certified.

SECTION 77. DWD 55.09 (1m) is created to read:

DWD 55.09 (1m) ADMINISTRATION. The certified child care operator of a school-age program 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 county or tribal agency is current and accurate.
- (d) Permit a child care certification worker to conduct inspections to monitor compliance with the certification standards.

SECTION 78. DWD 55.09 (2) (a) (intro.) and (2) (a) 2. are amended to read:

DWD 55.09 (2) PERSONNEL. (a) (intro.) *Director.* Each school-age ~~day~~ child care program shall have a person designated as director. The director shall:

DWD 55.09 (2) (a) 2. Have had at least one year of child care or administrative experience with preschool or school-age children or have completed at least 36 classroom hours of department-approved training or 3 credits of training in at least one of the following areas: child development, early childhood education, elementary education, child guidance, physical education, recreation or other department-approved area applicable for school age child care.

SECTION 79. DWD 55.09 (2) (a) 3. is created to read:

DWD 55.09 (2) (a) 3. Have graduated from high school, obtained a high school equivalency diploma under s. 115.29 (4), Stats., or obtained a certificate of general education development under s. PI 5.04.

SECTION 80. DWD 55.09 (2) (e) (intro.) is amended to read:

DWD 55.09 (2) (e) (intro.) *Staff records.* The school-age ~~day~~ child care program shall maintain a record for each employee which shall be available to the county or tribal agency and includes:

SECTION 81. DWD 55.09 (2) (f) and (g) are created to read:

DWD 55.09 (2) (f) *Health and safety.* No staff member, volunteer, visitor or parent with symptoms of communicable disease or physical illness, or whose behavior gives a reason to be concerned for the safety of the children, may be allowed on the premises of the program.

DWD 55.09 (2) (g) *Ability.* The staff members shall be physically and emotionally able to provide responsible child care.

SECTION 82. DWD 55.09 (3) (c) is amended to read:

DWD 55.09 (3) (c) Training in emergency procedures and ~~use of~~ first-aid procedures.

SECTION 83. DWD 55.09 (4) (a) 2. is amended to read:

DWD 55.09 (4) (a) 2. There shall be a report of inspection filed in the ~~licensing office of the department of health and family services' regional office~~ county or tribal agency which ~~that~~ indicates approval of the building by the state department of commerce or by a certified agent of that department. The building shall comply with applicable state and local building codes.

SECTION 84. DWD 55.09 (4) (a) 3., (4) (b) 4., and (4) (b) 5. are created to read:

DWD 55.09 (4) (a) 3. The premises shall have no flaking or deteriorating paint on exterior or interior surfaces in areas accessible for children. Lead-based paint may not be used on any surface on the premises.

DWD 55.09 (4) (b) 4. The inside temperature may not be less than 67 degrees Fahrenheit.

DWD 55.09 (4) (b) 5. If the inside temperature exceeds 80 degrees Fahrenheit, fans must be provided to improve air circulation.

SECTION 85. DWD 55.09 (5) (d) and (6) (f) are amended to read:

DWD 55.09 (5) (d) Pets that are kept on the premises shall be tolerant of children and vaccinated against rabies. Rabies vaccinations shall be documented with a current certificate from a veterinarian.

DWD 55.09 (6) (f) The ~~provider~~ certified child care operator shall keep a current, written record of the daily hours of attendance of each child in care, including the actual arrival and departure times for each child. Attendance records shall be kept for at least 3 years.

SECTION 86. DWD 55.09 (7) (am) is created to read:

DWD 55.09 (7) (am) A working cellular phone shall be taken on field trips.

SECTION 87. DWD 55.09 (7) (b) (intro.), (7) (c), (8) (c), (9) (b), (12) (b), and (12) (d) are amended to read:

DWD 55.09 (7) (b) (intro.) A school age child care program shall have on file an enrollment form that includes:

DWD 55.09 (7) (c) ~~The program shall maintain first aid supplies and staff~~ Staff shall wash superficial wounds with soap and water ~~before bandaging~~ only and protect the wound with a band-aid or bandage.

DWD 55.09 (8) (c) When a public water supply is not available, the water shall be tested and found to be bacteriologically safe ~~and to have safe nitrate and lead levels~~ by the state laboratory of hygiene or a laboratory certified under 42 CFR 493 (CLIA) prior to ~~or within 3 months of~~ initial certification and at least every following 2 years.

DWD 55.09 (9) (b) May not hit, spank, pinch, shake or inflict any other form of corporal punishment on a child, or use any discipline which is frightening to the child, including binding or trying to restrict the child's movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.

DWD 55.09 (12) (b) A driver for the program shall hold a valid Wisconsin ~~operator's~~ driver's license required under s. 343.05, Stats. The program shall have a copy of the driving license for all persons transporting children on file.

Note: Information on an individual's driving record is available by calling the Division of Motor Vehicles at (608) 261-2566 or through the website <http://www.dot.wisconsin.gov/drivers/drivers/points/abstract.htm>.

DWD 55.09 (12) (d) Any vehicle used by the program to transport children shall be in safe operating condition and at 12-month intervals the school-age ~~day~~ child care program shall provide evidence of the vehicle's safe operating condition to the ~~licensing office of the department of health and family services' regional office~~ county or tribal agency.

SECTION 88. DWD 55.09 (12) (e) is repealed and recreated to read:

DWD 55.09 (12) (e) Each child and adult being transported in a vehicle with a seating capacity of 15 or fewer shall be seated and properly restrained in an individual seat belt or, for a child under 8 years of age, a child safety restraint system in compliance with s. 347.48 (2m) and (4), Stats as follows:

1. If a child is at least 4 years old but less than 8 years old, weighs at least 40 pounds but not more than 80 pounds, and is not more than 57 inches in height, the child shall be properly

restrained in a shoulder-positioning child booster seat.

2. A child under 13 years of age may not ride in the front seat of a vehicle.

SECTION 89. DWD 55.09 (12) (f) and (g) are created to read:

DWD 55.09 (12) (f) A written transportation permission slip signed by a parent or guardian is on file.

DWD 55.09 (12) (g) No child may be left unattended in a vehicle.

SECTION 90. EFFECTIVE DATE. This rule shall take effect the first day of the month following publication in the Administrative Register as provided in s. 227.22 (2) (intro.), Stats.