

CR 82-27

CERTIFICATE

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3:00 pm
Advisor of Statutes
Bureau

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Donald E. Percy, Secretary of the Department of Health and Social Services and custodian of the official records of said department, do hereby certify that the annexed rules relating to the licensing of child care institutions were duly approved and adopted by this department on June 21, 1982.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the State Office Building, 1 W. Wilson Street, in the city of Madison this 21st day of June, A.D. 1982.

SEAL:



Donald E. Percy, Secretary
Department of Health and Social Services

9-1-82

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
REPEALING; RENUMBERING; AMENDING AND ADOPTING

To repeal PW-CY 40.50 and 40.56; to renumber PW-CY 40.51 to 40.55; to amend HSS 52.03(2)(d)6 and (h)2, 52.04(1)(a) and (h), 52.05(6)(a)2 and (7)(i), and 52.06(2)(a) and (4)(c), as renumbered; and to create HSS 52(title), 52.01 and 52.07, as renumbered, relating to the licensing of child care institutions.

Analysis Prepared by the Department of Health and Social Services

The rules for licensing child welfare institutions, now more commonly called child care institutions, are amended in minor ways to change or delete cross-references, take out other unnecessary language, update some language, correct numbering errors, and to recast the introductory section into currently proper form.

These rules are also renumbered to bring them into the HSS series in the Wisconsin Administrative Code, and are converted from a section to a chapter in that series. Eventually all rules of the Department will be in the HSS series in the multi-volume Code so that it will be easier for interested persons to identify and locate rules administered by the Department.

Pursuant to authority vested in the Department of Health and Social Services by s. 48.67, Stat., the Department of Health and Social Services hereby renumbers, amends, and repeals and adopts rules interpreting ss. 48.60, 48.66, and 48.67, Stats., as follows:

SECTION 1. PW-CY 40.50 of the Wisconsin Administrative Code is repealed.

SECTION 2. PW-CY 40.56 of the Wisconsin Administrative Code is repealed.

SECTION 3. HSS 52 (title) of the Wisconsin Administrative Code is created to read:

Chapter HSS 52
CHILD CARE INSTITUTIONS

SECTION 4. HSS 52.01 of the Wisconsin Administrative Code is created to read:

HSS 52.01 INTRODUCTION. (1) STATEMENT OF INTENT. The intent of these rules is to protect and promote the health, safety and welfare of children in the care of child care institutions in Wisconsin.

(2) TO WHOM THE RULES APPLY. This chapter applies to all child care institutions.

(3) EXCEPTIONS. The department may make exceptions to any rule for licensing child care institutions when it is assured that granting such exceptions is not detrimental to the health, safety or welfare of children.

(4) DEFINITIONS. As used in this chapter: (a) "Board of directors" means the policy-making body which governs a child care institution and is responsible for compliance with this chapter.

(b) "Child" means a person under 18 years of age, except that a person under continuing juvenile court jurisdiction who is over 17 years of age but has not yet attained the age of 21 is also considered a "child" for purposes of this chapter.

(c) "Child care institution" means a child welfare agency which regularly provides care and maintenance for children within the confines of its building.

Note. An agency having education as its primary purpose is deemed to be a child care institution when its pupils, in the ordinary course of events, do not return annually to the homes of their parents or guardians for at least 2 months of summer vacation. Exceptions to these rules may be considered for such agencies when the exceptions, in the department's opinion, do not jeopardize the health, safety and welfare of children.

(d) "Child welfare agency" means any person required to be licensed under s. 48.60, Stats.

(e) "Department" means the Wisconsin department of health and social services.

(f) "Division" means the department's division of community services.

(g) "Division of health" means the department's division of health.

(h) "Guardian" means the person or agency appointed by a court to make major decisions affecting a child, which may include consent to marriage, to enlistment in the armed forces, to major surgery and to adoption, or to manage the estate of a minor.

(i) "Legal custodian" means the person or agency to whom a court has transferred a child's legal custody, and who thereby has the right and duty to protect, train and discipline the child and to provide for the child's care needs. "Legal custody" has the meaning prescribed in s.48.02(12), Stats.

SECTION 5. PW-CY 40.51 of the Wisconsin Administrative Code is renumbered HSS 52.02.

SECTION 6. PW-CY 40.52 of the Wisconsin Administrative Code is renumbered HSS 52.03, and HSS 52.03(2)(d)6 and (h)2, as renumbered, are amended to read:

(d)6. Consultant services. The agency institution shall provide consultant services as required to meet the needs of the children. Consultants shall meet the standards of their professional groups. ~~(See also section PW-CY-40.55(2)(d)2.)~~

(h)2. There shall be one person on the premises awake and on duty during the night in any institution having a population of over 25 children on the premises. ~~(See also, section PW-CY-40.52(2)(e)5.)~~

SECTION 7. PW-CY 40.53 of the Wisconsin Administrative Code is renumbered HSS 52.04, and HSS 52.04(1)(a) and (h), as renumbered, are amended to read:

(a) All buildings of the child welfare care institution shall comply with the state building code, chs. IND 50 to 64, Wis. Adm. Code.

(h) Any institution operating or using camping facilities shall comply with requirements for recreational camps established by the division of health ~~(See chapter H-757--Recreation-Camps--State-Division-of-Health)~~ in ch. HSS 175, Wis. Adm. Code. ~~Agencies shall comply with requirements established through annual inspections of the division of health.~~

SECTION 8. PW-CY 40.54 of the Wisconsin Administrative Code is renumbered HSS 52.05, and HSS 52.05(6)(a) 2 and (7)(i), as renumbered, are amended to read:

(6)(a)2. Prohibit physical and verbal abuse, corporal punishment, ill treatment and harsh and humiliating punishment. ~~(See sections 49.984 and 940.27, Wis. Stats.)~~

(7)(i) Health records. ~~4~~ The institution shall maintain on its premises a separate health record or a health section in the case record for each child which shall include:

a~~1~~. The signed consent of parent or guardian. ~~(See section PW-CY-40.54 s. HSS 52.05(7)(a)1.c.).~~

b~~2~~. Reports of all required and additional examinations and the recommendations resulting from such examinations.

c~~3~~. Previous and continuing health history of the child.

d~~4~~. Record of illness, treatment and medication, and hospitalization.

e~~5~~. Information concerning the following medical procedures, including dates of occurrences, results, and person administering:

1~~a~~. Immunizations and laboratory tests.

2~~b~~. Corrective treatments.

3~~c~~. Dental examinations and treatment.

SECTION 9. PW-CY 40.55 of the Wisconsin Administrative Code is renumbered HSS 52.06, and HSS 52.06(2)(a) and (4)(c), as renumbered, are amended to read:

(2)(a) Each child in care shall receive regular social services provided by qualified social workers on the staff of the institution or by arrangement with another social service agency or agencies. When social service is provided by

another agency, the institution shall be responsible for the adequacy of such the service. ~~(See also section PW-CX-40.52(2)(d))~~

(4)(c) The institution shall provide pertinent health information to the parents or the agency receiving the child. ~~(See section PW-CX-40.54(7)(e)4 and (g)6)~~

SECTION 10. HSS 52.07 of the Wisconsin Administrative Code is created to read:

HSS 52.07 RECORDS AND REPORTS. (1) GENERAL REQUIREMENTS. Each institution shall maintain records and submit reports prescribed by the department. Authorized representatives of the department shall have access to all records and reports pertinent to licensing.

(2) RECORDS. (a) Each institution shall maintain:

1. A register of all children currently receiving care. Included in the register shall be information concerning the name, sex, birthdate and legal custodian of each child.

2. Individual case records of all children accepted for care. These records shall be maintained for at least 5 years after a child is discharged from care. (See s. HSS 52.06(5)(b)).

3. Health records of children. (See s. HSS 52.05(7)(i)).

4. Personnel records. (See s. HSS 52.03(1)(c)).

5. Financial reports and audits. (See s. HSS 52.02(4)(b)).

6. Copies of menus of all meals served. (See s. HSS 52.05(8)(a)5.).

7. Records of fire drills held. (See s. HSS 52.04(9)(a)4.).

8. Log on the use of isolation rooms. (See s. HSS 52.05(6)(a)7.c.).

(b) All records shall be protected against fire damage, theft, and unauthorized inspection.

(3) REPORTS. Each institution shall submit to the department:

(a) Reports as required under s. 48.67(3), Stats.

(b) A special report within 48 hours after the occurrence of an unusual incident such as a major fire or the death or serious injury of any child. (See ss. HSS 52.04(9)(a)10. and HSS 52.05(7)(j)). "Major fire" means a fire requiring the services of a fire department. "Serious injury" means an injury requiring hospitalization.

The rules, repeals, amendments, and renumbering contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.026(1), Stats.

Department of Health and Social Services

Dated: 6-21-82

by

A handwritten signature in black ink, appearing to read "D.E. Percy", is written over a horizontal line. The signature is stylized and cursive.

Donald E. Percy
Secretary

SEAL: