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CERTIFICATE

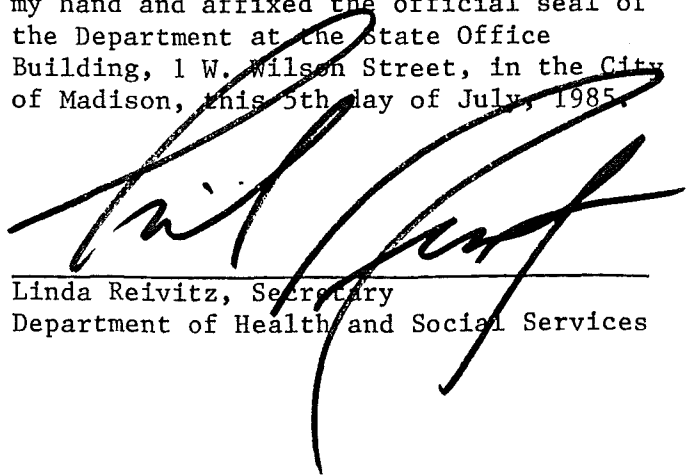
STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Linda Reivitz, 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 day care services for children were duly approved and adopted by this Department on July 5, 1985.

I further certify that this 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 5th day of July, 1985.



Linda Reivitz, Secretary  
Department of Health and Social Services

SEAL:

9-1-85

ORDER OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
RENUMBERING AND CREATING RULES

To renumber HSS 55.50 and to create HSS 55.50 to 55.51, 55.55 to 55.63 and 55.70 to 55.77, relating to day care services for children.

Analysis prepared by the Department of Health and Social Services

The Department currently has rules for licensing day care centers for children. Those rules make up the first 4 subchapters of ch. HSS 55, Wis. Adm. Code, Day Care for Children. Day care centers are required to be licensed if they provide services for compensation and serve 4 or more children under 7 years of age who are unrelated to the provider. A recent session law, 1983 Wisconsin Act 193, created s.46.03(21), Stats., which requires the Department to also establish standards for the certification by county agencies of persons who provide day care for 1 to 3 children or are not otherwise required to be licensed as day care centers, and whose services are purchased by county social service and human services departments with state community aid funds. This rule-making order contains those standards. They comprise a new subchapter in ch. HSS 55. Another new subchapter implements s. 46.98, Stats., also created by 1983 Wisconsin Act 193. This subchapter is concerned mainly with the distribution to county agencies of state community aid funds for day care and the criteria county agencies must follow in developing methods for determining rates on the basis of which they will purchase day care services from certified providers on behalf of eligible parents. A third new subchapter makes the department's standards for day care centers apply to day care programs established by school boards.

Sections HSS 55.55 to 55.63, rules for the day care certification program, cover types of providers and categories of certification, the certification procedure, standards for family and in-home day care, standards for school-age programs, standards for programs operated by parochial and other private schools, denial or revocation of certification, and appeal of decisions to deny or revoke certification. Sections HSS 55.70 to 55.77, rules for day care program administration and funding, cover Department responsibility generally for day care regulation, include a procedure by which the Department each year develops a formula for distributing day care funds to county social service and human service departments, lists the purposes for which day care funds may be expended by county agencies, incorporates criteria to be used by the agencies in setting rates for day care purchased by them, establishes conditions for parent eligibility for publicly funded day care, permits parents to choose a day care provider from among licensed or certified providers, and requires parents to pay a part of the cost of day care if they can afford to do so.

Pursuant to authority vested in the Department of Health and Social Services by s.46.03(21), Stats., and by s. 46.98(2), (4)(d) and (5), Stats., as affected by 1983 Wisconsin Act 193, the Department of Health and Social Services hereby renumbers and creates rules interpreting ss.46.03, 46.98, 48.651 and 48.653, Stats., as follows:

SECTION 1. HSS 55.50 is renumbered 55.80.

SECTION 2. Subchapter V of HSS 55 is created to read:

SUBCHAPTER V - DAY CARE PROGRAMS  
ESTABLISHED BY SCHOOL BOARDS

HSS 55.50 DEFINITIONS. In this subchapter, "establish and provide" means to fund the day care program and to control the daily operation of the program.

HSS 55.51 COMPLIANCE WITH LICENSING STANDARDS. (1) A day care program established and provided by a school board shall comply with applicable standards under subchs. I, and II, III or IV governing the operation of day care centers.

(2) The department shall inspect the day care program established and provided by a school board and document in writing for the school board whether or not the day care program complies with the applicable standards for day care centers under this chapter.

SECTION 3. Subchapter VI of HSS 55 is created to read:

SUBCHAPTER VI - DAY CARE CERTIFICATION

HSS 55.55 AUTHORITY, PURPOSE AND APPLICABILITY. (1) AUTHORITY AND PURPOSE. This subchapter is promulgated pursuant to s.46.03(21), Stats., and implements s. 48.651, Stats. It establishes standards for the certification of persons who provide day care for 1 to 3 children or who are not otherwise required to be licensed as a day care center under s. HSS 55.05, and whose services are purchased by county social service departments with state community aid funds. The standards are intended to protect the health, safety and welfare of children in the care of these providers.

(2) APPLICABILITY. This subchapter applies to county agencies and to all providers of day care who receive reimbursement from county agencies and who are not required to be licensed under s. HSS 55.05, including providers of day care for 1 to 3 children, providers of day care for a child in the child's home and providers of day care for school-age children.

HSS 55.56 DEFINITIONS. In this subchapter:

(1) "Certified day care" means day care not required to be licensed as a day care center and which meets standards for purchase of care by county agencies.

(2) "Certified day care operator" means an individual, corporation, partnership or non-incorporated association or cooperative which has legal and financial responsibility for the operation of the day care program and for meeting the certification rules.

(3) "County agency" means a county department of social services or a county department of human services.

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

(5) "EPSDT" means early and periodic screening, diagnosis and treatment, a health screening and referral program for children from low-income families under 42 CFR 441.50 to 441.90 and ss.49.46 and 49.47, Stats.

(6) "Family day care center" means a day care center licensed under subchs. I and II.

(7) "Family day care provider" means a person providing care for preschool or school-age children or both outside their homes for less than 24 hours a day and who is not required to be licensed under s. 48.65, Stats., because the provider is caring for fewer than 4 children under 7 years old who are unrelated to the provider.

(8) "Group day care center" means a day care center licensed under subchs. I and III.

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

(10) "In-home provider" means a person caring for a child in the child's own home.

(11) "Parent" means a parent as defined in s.48.02(13), Stats., or a guardian as defined in s.48.02(9), Stats.

(12) "Parochial or other private school-operated day care program" means a program providing care and supervision for less than 24 hours a day for 4 or more children under the age of 7 and which is exempt from being licensed as a day care center under s. 48.65, Stats.

(13) "Provider" means a person who provides day care for children.

(14) "School-age day care program" means a program providing care and supervision for less than 24 hours a day for 7 or more school-age children who are at least 7 years of age but less than 12 years of age and which is exempt from being licensed as a day care center under s. 48.65, Stats.

HSS 55.57 CONDITIONS FOR PURCHASE OF SERVICES. A county agency may purchase day care only from a family day care center licensed by the department under subchs. I and II, a group day care center licensed by the department under subchs. I and III, a day camp licensed by the department under subchs. I and IV, a day care provider certified by a county agency under this subchapter or a day care program established and provided by a public school board.

HSS 55.58 CERTIFICATION. (1) BASIS FOR CERTIFICATION. In order to be certified, a day care provider shall be exempt from having to be licensed under subchs. I, and II, III or IV and shall comply with the appropriate standards for the type of certified provider that are specified in this subchapter.

(2) TYPES OF CERTIFIED PROVIDERS. The following types of day care providers shall be certified as a condition for receiving county day care funds:

(a) Family day care providers and in-home providers. Family day care and in-home providers are required to meet the standards under s. HSS 55.61 and may care for preschool children or up to 6 school-age children or a combination of preschool and school-age children consistent with Table 55.61(5).

(b) School-age day care programs. School-age day care programs are required to meet the standards under s. HSS 55.62;

(c) Private and parochial school-operated day care programs. Private and parochial school-operated day care programs are required to meet the standards referred to under s. HSS 55.63; and

(d) Other day care programs. Other day care programs identified under s. HSS 55.03(1), (2) and (3) for which a license is not required are required to meet the standards referred to under s. HSS 55.63.

(3) APPLICATION FOR CERTIFICATION. (a) Form. Application for certification shall be made on a form available from the county agency in the provider's county. The applicant shall submit the completed form to that county agency.

(b) References. The applicant shall submit with the application the names and addresses of persons who can attest to the applicant's good character and ability to care for children. The county agency shall require references of all applicants and shall contact references by phone or letter before certifying an applicant.

(c) Compliance with standards and certification. The county agency shall process all certification applications as follows:

1. If the application is for certification under sub. (2)(a), the county agency shall ensure that the applicant is in compliance with all standards under s. HSS 55.61 prior to issuing a certificate.

2. If the application is for certification under sub. (2)(b) or (c), the county agency shall refer the application to a licensing representative in the department's regional office. The licensing representative shall determine whether the applicant is in compliance with all standards under s. HSS 55.62 or meets current day care center standards set out in subchs. I and II or III, as applicable, and report back to the county agency. The county agency may issue a certificate based on the licensing representative's report.

(d) Approval. Within 60 days after receiving a completed application for certification or recertification, the county agency shall either approve the application and issue a certificate or deny the application. If an application is denied, the county agency shall give the applicant the reasons, in writing, for denial.

(4) CATEGORIES OF CERTIFICATION. Certification of a provider by a county agency shall be provisional, regular or limited as follows:

(a) Provisional certification. Provisional certification shall be issued for the purpose of determining whether a provider is able to come into compliance with designated standards prior to granting regular certification. Provisional certification shall be the initial stage of regular certification, shall be restricted to 6 months, and may not be renewed;

(b) Regular certification. Regular certification may be issued only after the provider has demonstrated compliance with all certification standards during the 6-month provisional certification. Regular certification shall be for a period of one year and shall be renewed annually upon application and if the provider continues to comply with the certification standards; or

(c) Limited certification. In order to meet emergency or short-term needs, limited certification may be issued to a provider for no more than 30 consecutive days and not more than 3 times in any 12-month period. The department may designate particular standards in this subchapter that may be waived by a county agency for this category of certification provided that the health, safety and welfare of children in the care of the provider will not be adversely affected.

(5) EXCEPTIONS TO PARTICULAR CERTIFICATION REQUIREMENTS. A county agency may grant an exception to any standard in s. HSS 55.61, 55.62 or 55.63 if the county agency is convinced that an alternative means meets the intent of the requirement.

HSS 55.59 SANCTIONS. (1) The county agency shall deny, suspend, revoke or refuse to renew certification and discontinue payment for care if the certified day care operator, day care program employe, provider, assistant to the provider, substitute provider or person living in the family day care provider's home:

(a) Is the subject of a pending criminal charge if the charge substantially relates to the circumstances of caring for children or the activities of the home; or

(b) Has been convicted of a felony, misdemeanor or other offense the circumstances of which substantially relate to the care of children or activities of the home.

(2) The county agency may deny, suspend, revoke or refuse to renew certification and discontinue payment for care if the certified day care operator, day care program employe, provider, assistant to the provider, substitute provider or person living in the family day care provider's home:

(a) Has been determined to have abused or neglected a child pursuant to s. 48.981, Stats.; or

(b) Is the subject of a court finding that the person has abandoned his or her child, has inflicted emotional damage or sexual or physical abuse on a child or has neglected or refused, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of a child.

(3) The county agency may deny, suspend, revoke or refuse to renew certification and discontinue payment for care if:

(a) The provider is not in compliance with certification standards under s. HSS 55.61, 55.62 or 55.63, as appropriate; or

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

HSS 55.60 APPEAL. If a county agency denies, suspends, revokes or refuses to renew a certification, the county agency shall notify the provider 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.

HSS 55.61 STANDARDS FOR FAMILY DAY CARE AND IN-HOME DAY CARE.

(1) QUALIFICATIONS OF PROVIDERS. (a) Age and ability. 1. The provider shall be at least 18 years of age and shall be physically and emotionally able to provide responsible child care.

2. The provider shall ensure that any person assisting in the care of children is at least 16 years of age and is physically and emotionally able to provide responsible child care.

3. The provider shall ensure that any substitute provider is at least 18 years of age and is physically and emotionally able to provide responsible child care.

4. The provider and any person assisting in the care of the children shall be required to sign a statement affirming that he or she has not been convicted or is not a subject of a pending criminal charge as specified under s. HSS 55.59(1).

(b) Health examination. Within 3 months after provisional certification, as a condition for maintaining certification, the provider and any other adult in daily contact with the children shall submit a statement from a physician certifying that a physical examination, including a test for tuberculosis, was completed within the previous 12 months and that the provider or other adult is essentially free from medical conditions which might endanger children in the care of the provider, except as provided under s. 118.25(2)(b), Stats.

(c) Training. A certified provider shall be enrolled in or have completed at least 10 hours of department-approved child care training within 6 months after provisional certification. The county agency may require up to 10 additional hours of department-approved training within that period.

(d) Insurance. A certified day care operator shall have insurance coverage, as follows:

1. General liability insurance with limits of not less than \$25,000 for each person and total limits of not less than \$75,000 for each occurrence; and

2. Vehicle liability insurance when transportation is provided for other than emergency purposes, with minimums of not less than \$10,000 property damage, \$75,000 for each person and \$150,000 for each accident.

(2) THE HOME IN FAMILY DAY CARE. The provider's home and outside play areas shall meet the following requirements:

(a) Each floor level used for child care shall have at least one unblocked exit and at least one smoke detector.

(b) All areas used for child care shall have adequate and safe heat, light and ventilation;

(c) The home shall be free of hazards and the following items shall be kept inaccessible to the children:

1. Medications and drugs;
2. Cleaning supplies, poisons and insecticides;
3. Guns, knives, scissors and sharp objects;
4. Matches, cigarette lighters and flammable liquids;
5. Plastic bags; and
6. Litter and rubbish;

(d) Indoor and outdoor areas used for child care shall include sufficient space for play and for activities which meet the developmental needs of the children in care;

(e) Outdoor play areas shall be free of hazards and shall be fenced or the provider shall take special measures to ensure the safety of the children;

(f) Pets that are kept in the home shall be tolerant of children and vaccinated against rabies;

(g) The home shall have at least one telephone in working order with a list of emergency numbers posted by each telephone, including numbers for the rescue squad, police, fire station, emergency medical care and poison control center;



(h) The provider shall use an enrollment form which includes:

1. The parents' home and work phone numbers;
2. The parents' signed consent for emergency medical care; and
3. A name and number to call if the child requires emergency medical care;

(i) The provider shall maintain first-aid supplies and shall wash superficial wounds with soap and water before bandaging;

(j) The home shall be kept clean, uncluttered and free of insects and rodents;

(k) Bathrooms, including toilets, sinks and potty chairs, shall be kept clean and in good working condition;

(l) When a public water supply is not available, the well water shall be tested and found to be bacteriologically safe by the state laboratory of hygiene or a state-approved laboratory at least annually;

(m) Areas, equipment and utensils for food preparation, serving and clean-up shall be kept clean and sanitary; and

(n) Children may not share cups, eating utensils, washcloths or towels.

(3) THE HOME FOR IN-HOME CARE. When a provider cares for children in the children's own home, the provider shall comply with requirements in sub. (2)(c), (e), (h), (i) and (m).

(4) CHILD HEALTH CARE. (a) Except for school-age children, the provider shall have a current report of a health examination by a licensed physician or a Christian Science practitioner on file for each child as follows:

1. For a child under 2 years of age, a report of a physical examination performed within the past 6 months; and

2. For a child 2 years of age or older, a report of a physical examination performed within the past 2 years.

(b) If a child is participating in the early and periodic screening diagnosis and treatment (EPSDT) program or other department-approved health screening program, the requirement of par. (a) shall be considered met.

(c) The provider shall have on file a written record, signed by the parent's of each pre-school child, verifying that the child has been immunized in compliance with s.140.05(16), Stats., and ch. HSS 144.

(d) The provider may administer medication to a child only in accordance with written and signed permission from the child's parent.

(5) MAXIMUM NUMBER OF CHILDREN. (a) In this subsection, "the provider's own children" means the provider's natural children, foster children and relatives who are children and reside 24 hours a day with the provider. A provider's own children 7 years old and older may not be counted in determining the maximum number of children allowed under par. (b).

(b) As indicated in Table 55.61(5), a certified provider of day care may take care of no more than 3 children under the age of 7 in addition to the provider's own children and other children ages 7 to 11 at any one time, and:

1. No more than a total of 6 children;
2. No more than a total of 5 children if 3 of the children present are under the age of 2;
3. No more than a total of 4 children if 4 of the children present are under the age of 2; and
4. No more than a total of 3 children if all 3 are under one year of age.

Table 55.61(5)  
 MAXIMUM NUMBER OF CHILDREN IN CERTIFIED DAY CARE  
 I - CHILDREN 2 YEARS OF AGE AND OLDER

Provider's Children Under 7 Years of Age	Maximum Number of Additional Children Under 7 Years of Age	Additional Children Ages 7 to 11	Maximum Total Number of Children *
0	3	Additional Children	6
1	3	Ages 7 to 11	6
2	3	May be Cared	6
3	3	For As Long As The	6
4	2	Maximum Total Number	6
5	1	of Children Is Not	6
6	0	Exceeded	6

\*The maximum total does not include the provider's own children 7 years of age and older.

II-LIMITATIONS ON GROUP SIZE WHEN CHILDREN  
 UNDER THE AGE OF 2 YEARS ARE PRESENT

Number of Children Under the Age of 2 Years	Maximum Total Number of Children *
0	6
1	6
2	6
3	5
4	4
3 (all under 1 year)	3

\*The total does not include the provider's own children 7 years of age and older.

(6) PROVIDER INTERACTIONS WITH CHILDREN. The provider shall interact with the children in a caring and positive manner and:

(a) Shall protect children in care from danger and be aware of where each child is at all times;

(b) Shall make known to interested parents and the county agency whether he or she is prepared and equipped to care for handicapped, abused, neglected or other children with special care needs;

(c) May not hit, spank, pinch, shake or inflict any other form of corporal punishment on the child, or use any discipline which is frightening to the child; and

(d) May not verbally abuse or threaten a child or make derogatory remarks about the child or the child's family.

(7) ACTIVITIES AND EQUIPMENT. (a) The provider shall implement a program of learning and play activities. Activities shall include:

1. A balance of active and quiet play for each child daily;

2. Both indoor and, weather permitting, outdoor activities for each child daily;

3. Opportunities for each child to play with a variety of toys and equipment;

4. Opportunities for each child to be involved in a variety of activities during a week;

5. Activities specifically for children under 1 year of age, if these children are present; and

6. Activities specifically for children from 1 to 2 years of age and for children 2 years and older, if these children are present.

(b) Television may be used only to supplement the daily plan for children. No child may be required to watch television.

(8) TRANSPORTATION. When transporting children the provider shall ensure that:

(a) The driver of the vehicle holds a valid Wisconsin operator's license;

(b) The vehicle is registered in Wisconsin;

(c) Each child under the age of 4 is properly restrained in a child safety restraint system or in a seat belt in accordance with s.347.48, Stats.; and

(d) Children 4 years of age or older wear seat belts when seat belts are available.

(9) MEALS AND SNACKS. The provider shall ensure that each child receives proper nourishment while in day care as follows:

(a) Each child shall be served one meal or snack at least once every 3 hours;

(b) Each child in attendance for 4 or more hours shall be served a noon or evening meal which consists of a protein food, fruit and vegetable, a cereal or bread product and pasteurized grade A vitamin D milk; and

(c) Each infant who is unable to hold his or her own bottle shall be held for bottle feeding. Bottles may not be propped.

(10) REST. The provider shall ensure that each child has a clean, comfortable and safe place to rest as follows:

(a) Each child shall be allowed to have undisturbed rest or a nap, when needed, in a place that is clean, safe and comfortable; and

(b) Each child shall have a personal clean sheet or blanket or both and pillowcase if a pillow is used.

(11) PROVIDER AND PARENT COMMUNICATION. The provider shall ensure ongoing communication with a child's parent by:

(a) Allowing parents to visit and observe the program of child care during any hours that care is being provided;

(b) Talking to each child's parent at least once a week about his or her child's development, activities, likes and dislikes;

(c) Developing written information which specifies the charge for day care and the expected frequency of payment for the service; and

(d) Making a copy of the applicable certification standards available to each parent.

HSS 55.62 STANDARDS FOR SCHOOL-AGE PROGRAMS. School-age day care programs shall meet the following standards in order to be certified:

(1) PERSONNEL. (a) Director. Each school-age day care program shall have a person designated as director. The director shall:

1. Be at least 21 years of age; and

2. Have had at least one year of child care or administrative experience with preschool or school-age children or have completed 40 classroom hours 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 training;

(b) Program leader. A program leader shall be designated by the program director to plan and implement the daily activities for a designated group of children. The program leader shall:

1. Be at least 18 years old;
2. Have completed high school or its equivalency;
3. Have had 80 working days experience working with school-age children; and
4. Have completed 20 classroom hours 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 training;

(c) Program assistant. A program assistant shall:

1. Work under the supervision of a program leader;
2. Be at least 18 years old; and
3. Have completed or be enrolled in 10 classroom hours 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 training;

(d) Substitutes. In the absence of a regular staff member, there shall be a similarly qualified substitute who is at least 18 years old, but when the regular staff member is not expected to be absent for more than 3 days a person not meeting the educational qualifications under par. (a), (b) or (c) may substitute for the regular staff member if a qualified person is not available.

(e) Staff records. The school-age day care program shall maintain a record for each employe which is available to the county agency and includes:

1. The name, address, date of birth, education, position, names and addresses of employers in previous work experience in child care, the name, address and telephone number of a person to be notified in an emergency, and a statement signed by the employe affirming that he or she has not been convicted or is not the subject of a pending criminal charge as specified under s.HSS 55.59(1);
2. Evidence of a physical examination within 6 months before beginning work or within 30 days after beginning work, except as provided under s. 118.25(2)(b), Stats. The report shall be dated and signed by a physician and shall certify that the person is free from illness detrimental to children and is physically able to work with young children; and

3. Documentation of educational qualifications for the position.

(2) ORIENTATION. Each program shall develop and implement an orientation program which shall be given to all new staff and volunteers in the first week that they are at the center. This orientation shall include:

- (a) Review of health, nutrition and discipline policies;
- (b) Review of plans for evacuation and other emergencies;
- (c) Training in emergency procedures and use of first-aid;
- (d) Review of all applicable parts of this chapter;
- (e) Review of the program's activity schedules;
- (f) Training in the recognition of signs of child abuse and neglect and explanation of responsibilities for reporting suspected cases of child abuse or neglect;
- (g) Explanation of job responsibilities and job descriptions; and
- (h) Training in the recognition of childhood illnesses.

(3) FACILITY. (a) General rules. 1. Local authorities shall be consulted to obtain any required zoning clearances or building permits.

2. There shall be a report of inspection which indicates approval of the building by the department of industry, labor and human relations or by a certified agent of that department. The building shall comply with applicable state and local building codes.

(b) Indoor space. 1. The space used by children shall be no less than 35 square feet (3.3 sq. meters) of usable floor space per child.

2. The indoor area shall be free of hazards, and items that may be harmful to children such as medications, drugs, poisons, insecticides, weapons, matches, cigarette lighters and flammable liquids shall be kept out of reach of the children.

(c) Outdoor space. Where children are present for more than 3 hours a day, there shall be at least 75 sq. feet (7.0 square meters) of outdoor play space on the premises for each child using the space at a given time. The outdoor space shall be well-drained and free of hazards.

(4) CHILD HEALTH CARE. (a) Within 90 days after a child is enrolled, the program shall have on file reports of health examinations by a licensed physician or Christian Science practitioner completed on the child within the previous 3 years.

(b) The program shall isolate any ill child and contact the parent or designated responsible person as soon as possible to arrange for removal of the child from the program.

(c) The provider may administer medication to a child only in accordance with written and signed permission from the child's parent.

(d) Pets that are kept on the premises shall be tolerant of children and vaccinated against rabies.

(5) STAFFING AND GROUPING. (a) At least one person meeting the qualifications of a program leader shall supervise each group of children.

(b) The maximum number of children in a group and the ratio of program staff to children may not exceed the following:

1. There shall be no more than 32 children in a group; and
2. There shall be at least one staff member for every 16 children.

(c) Children who are relatives of staff are counted in the group size and ratio calculations.

(d) In a program with 10 or more children present, there shall be at least 2 adults available at all times on the premises.

(6) EMERGENCIES. (a) There shall be a phone in working order to which the staff has access and a list of emergency phone numbers posted on or near the phone. The list shall include numbers for the rescue squad, police, fire station, emergency medical care and poison control center.

(b) The programs shall have on file:

1. The parents' home and work phone numbers;
2. The parents' signed consent for emergency care;
3. A name and number to call if the child requires emergency medical care; and
4. Information about any allergies, physical problems and special needs the child may have and other special care information concerning the child.

(c) The program shall maintain first-aid supplies and staff shall wash superficial wounds with soap and water before bandaging.

(7) SANITATION. (a) The premises shall be kept clean, uncluttered and free of insects and rodents.

(b) Bathrooms, including toilets and sinks, shall be kept clean and in good working condition.

(c) When a public water supply is not available, the well water shall be tested and found to be bacteriologically safe by the state laboratory of hygiene or a state-approved laboratory at least annually.

(d) Areas, equipment and utensils for food preparation, serving and clean-up shall be kept clean and sanitary.

(e) Children may not share cups, eating utensils, washcloths or towels.



(8) STAFF INTERACTIONS WITH CHILDREN. Staff shall interact with the children in a caring and positive manner and:

(a) Shall protect children in their care from danger and be aware of where each child is at all times;

(b) May not hit, spank, pinch, shake or inflict any other form of corporal punishment on the child, or use any discipline which is frightening to the child; and

(c) May not verbally abuse or threaten a child or make derogatory remarks about the child or the child's family.

(9) ACTIVITIES AND EQUIPMENT. (a) The program shall implement a schedule of activities which include:

1. A variety of activities which ensure that each child is involved daily in a balance of active and quiet play;

2. Both indoor and, weather permitting, outdoor activities for each child daily;

3. Opportunities for each child to use a variety of materials and equipment; and

4. Opportunities for each child to be involved in a variety of activities during a week and to select and plan his or her own activities.

(b) Television viewing, if part of the activities, may not exceed one hour a day per child and shall be appropriate for the children in care.

(10) MEALS AND SNACKS. (a) A program operating for less than 4 hours shall ensure that each child is served a snack.

(b) A program operating 4 or more hours shall ensure that each child is served one meal and one snack at least once every 3 hours.

(c) For each child served a noon or evening meal, that meal shall consist of a protein food, fruit and vegetable, a cereal or bread product and pasteurized grade A vitamin D milk.

(d) Snacks shall consist of at least one of the following: milk or a milk product, fruit, fruit juice, vegetable, peanut butter or other protein, whole grain or enriched bread or cereal. When only fruit juice is served, it shall be pure fruit juice.

(11) TRANSPORTATION. (a) The program shall have a written agreement signed by a parent or guardian which specifies how the child will be transported to and from the program.

(b) A driver for this program shall hold a valid Wisconsin operator's license of whatever type is required.

(c) Any vehicle used by the program to transport children shall be registered in Wisconsin.

(d) When safety belts are available in a vehicle, they shall be worn by children.

(12) REST. The provider shall ensure that each child has a clean, comfortable private place to rest or relax when needed.

(13) PROVIDER AND PARENT COMMUNICATION. The program shall ensure ongoing communication with a child's parent by:

(a) Allowing parents to visit and observe the program of child care at any time during the hours of operation;

(b) Staff communicating with each child's parent at least once a week about his or her child's development, activities, likes and dislikes;

(c) Staff developing written information about the service which specifies the charge for day care and the expected frequency of payment for the program; and

(d) Making a copy of the applicable certification standards available to each parent.

(14) INSURANCE. The program shall provide documentation of insurance coverage by the submission of a certificate of insurance reflecting current dates of coverage for:

(a) General liability insurance which provides coverage with limits of not less than \$25,000 for each person and total limits of \$75,000 for each occurrence;

(b) Vehicle liability insurance when transportation is provided, with minimums no less than those specified in s. 121.53, Stats; and

(c) Non-owned vehicle liability insurance when transportation is provided by other than center-owned vehicles.

HSS 55.63 STANDARDS FOR PROGRAMS OPERATED BY PAROCHIAL AND OTHER PRIVATE SCHOOLS. A day care program operated by a parochial or other private school is exempt under s.48.65(2)(b), Stats., from having to be licensed as a family or group day care center. However, in order to be certified by a county agency to provide day care as a condition for receiving county day care funding, a day care program operated by a parochial or other private school shall comply with the standards established under this chapter for either family or group day care centers, as appropriate.

SECTION 4. Subchapter VII of HSS 55 is created to read:

SUBCHAPTER VII - DAY CARE PROGRAM ADMINISTRATION AND FUNDING

HSS 55.70 AUTHORITY, PURPOSE AND APPLICABILITY. This subchapter is promulgated under the authority of s. 46.98(5)(e), Stats. It provides definitions, procedures and standards for the administration of s.46.98, Stats., which concerns the distribution to county agencies of state community aid funds for day care for children, the use of those funds by county agencies and the eligibility of parents for publicly funded day care for their children. This subchapter applies to the department, county agencies, providers of day care, whether licensed or certified, and eligible parents.

HSS 55.71 DEFINITIONS. The definitions in subchapter VI apply to this subchapter, except the definition of "parent" under s.HSS 55.56(11). In addition, in this subchapter:

- (1) "AFDC" means aid to families with dependent children, a public assistance program under Title IV-A of the Social Security Act of 1935, as amended, and ss. 49.19 to 49.41, Stats.
- (2) "Center slots" or "slots" means the number of places for children within the licensed capacity of a day care center.
- (3) "Day care price" means the amount regularly charged by a provider to a parent who pays for the day care services out of his or her personal funds.
- (4) "Day care system" means a network of licensed family day care centers, family day care providers, and in-home day care providers centrally organized, coordinated and administered as a unit, an extension of another day care center, or part of a training or educational program of a university, a vocational technical school, a county agency or a community agency concerned primarily with child care.
- (5) "Family" means one or more adults and children, if any, related by blood or law and residing in the same household. Where adults other than spouses reside together, each is considered a separate family. An emancipated minor and child living under the care of an individual is considered a one-person family.
- (6) "Formula" means a prescribed method for determining funding allocations.
- (7) "Income" means money, wages or salary, net income from non-farm self-employment, net income from farm self-employment, social security, dividends, interest on savings or bonds, income from estates or trusts, net rental income or royalties, public assistance or welfare payments, pensions and annuities, unemployment compensation, worker's compensation, alimony and other maintenance payments, child support and veteran pensions.

(8) "Income-eligible" means meeting the income standard as determined annually by the department under s.HSS 55.76(6).

(9) "Parent" has the meaning prescribed in s.46.98(1)(c), Stats., namely, a parent, guardian, foster parent, legal custodian or person acting in place of a parent. In this subsection, "person acting in place of a parent" means a person to whom the child is related in one of the ways listed in s.HSS 201.17(1).

(10) "Provider" or "day care provider" means a person who provides child day care services for compensation.

(11) "Rate" means the maximum amount a county agency will pay for day care.

(12) "Special need" means special emotional, behavioral, or physical and personal needs of a child requiring more than the usual amount of care and supervision for the child's age.

(13) "Voucher" means an authorization for reimbursement.

HSS 55.72 DEPARTMENT RESPONSIBILITIES. (1) GENERAL. The department shall maintain oversight responsibility for administration of the day care licensing and certification programs.

(2) RATE APPROVAL. The department shall review and approve the method employed by counties for determining reasonable and customary day care rates as required under ss.HSS 55.73(6) and 55.74.

(3) ASSISTANCE TO COUNTIES. The department shall provide information and technical assistance to county agencies regarding state and county administration of day care programs.

(4) INFORMATIONAL MATERIALS. The department shall develop pamphlets, brochures and other informational materials for distribution to counties, day care providers and the general public relating to day care and the certification and licensing programs.

(5) UNMET NEEDS. The department shall periodically study and determine the unmet day care service needs in the state and develop plans to foster day care services to meet those needs.

(6) ALLOCATION OF FUNDS. The department shall distribute day care funds to county agencies through a formula which shall be developed each year in accordance with the following procedures:

(a) A statewide day care allocation committee shall develop a recommended formula initially and shall review the formula annually and make recommendations to the department. The allocation committee shall include representatives from both major political parties of the state legislature, county agencies, county associations, day care providers, day care associations, community representatives and department staff; and

(b) The recommended formula shall be reviewed by the department's day care and child development advisory committee which shall comment to the department on the adequacy of the formula.

(7) RATE REVIEW. (a) The department shall annually review each county's day care rates and rate-setting method, and shall approve or disapprove the county agency's rates based on the following criteria:

1. The rate-setting method is in accordance with rate-setting requirements specified under ss. HSS 55.73(6) and 55.74; and

2. The rate-setting method documents that the maximum allowable rate permits all eligible parents a reasonable choice of day care providers.

(b) The department may grant a variance to a requirement under s. HSS 55.74 if the department is convinced that an alternative means meets the intent of the requirement.

HSS 55.73 COUNTY AGENCY RESPONSIBILITIES. (1) GENERAL. Each county agency shall be responsible for the administration of the county's day care program in accordance with the requirements set forth in subchapter V and this subchapter.

(2) RATE-SETTING METHOD. The county agency shall submit a written statement to the department in accordance with s.HSS 55.74, which describes the method by which the county agency has determined reasonable and customary rates and the maximum rate that the county will allow for the purchase of day care services.

(3) AUTHORIZED PROVIDERS. (a) The county agency may purchase day care services from or provide vouchers for the purchase of day care services from only the following providers:

1. Providers licensed by the department under subchs. I and II, III or IV;

2. Providers certified by the county agency under standards specified in s.HSS 55.61, 55.62 or 55.63; or

3. Programs established and provided by a school board under s.120.13(14), Stats.

(b) The county agency may not purchase services or issue vouchers for day care services provided by a person legally responsible for a child.

(c) The county agency may set policies prohibiting the purchase of services or issuance of vouchers for day care services provided by a relative living in the child's household.

(4) INFORMATION TO PROVIDERS. The county agency shall distribute brochures to day care providers regarding basic child care, certification and licensing requirements.

(5) EXPENDITURE OF DAY CARE FUNDS. The county agency shall expend state-allocated day care funds in accordance with s.46.98(3) and (4), Stats., and s. HSS 55.75.

(6) PROVISION AND PURCHASE OF SERVICE. The county agency shall provide day care services directly, provide day care services by contracting with day care providers, or provide vouchers to parents for the purchase of day care services. The county agency:

(a) Shall use a portion of its day care funds and may use all of its day care funds to provide vouchers to eligible parents, as follows:

1. The county agency shall offer a voucher to each eligible parent to the extent that allocated funds are available;

2. A voucher shall be in writing and shall authorize a parent to obtain stipulated day care services from a provider under sub. (3); and

3. The voucher shall set a maximum amount of authorized reimbursement which is the lesser of the county maximum rate or the provider's charge, minus the payment that the parent is required to make under s. HSS 55.77(2).

(b) The county agency shall reimburse the day care provider for services authorized and provided, whether under contract with the county agency or through vouchers, and shall pay for absences up to 20% of the authorized monthly units of service. Counties may reimburse providers for absences exceeding 20% of the authorized monthly units of service only when the day care is for parents with crisis or respite needs.

HSS 55.74 ESTABLISHING COUNTY DAY CARE RATES. (1) DAY CARE PURCHASED BY CONTRACT. If a county agency contracts directly with a day care provider, the rates for the provider shall be determined by a negotiated agreement between the provider and the county, within allowable costs as determined by the department.

(2) DAY CARE PURCHASED BY VOUCHERS. (a) General. If a county agency provides day care by offering parents vouchers, the agency shall annually set reasonable and customary maximum day care rates in accordance with procedures and policies set forth in this subsection.

(b) Survey. The county agency shall annually contact all full-time licensed group day care centers and family day care centers in the county to determine the day care prices they charge to the general community.

(c) Groups. The county agency shall set separate maximum rates for the following 3 groups of children:

1. Infants and toddlers under 2 years old;
2. Preschoolers age 2 up to school age; and
3. Children 6 through 11 years old receiving care before or after school.

(d) Types of care. The rates for each of the 3 groups under par. (c) shall be set separately for the following types of care:

1. Licensed group day care centers;
2. Licensed family day care centers; and
3. Certified family day care providers and in-home providers.

(e) Maximum rates for licensed day care centers. The maximum rates for licensed centers shall be set as follows:

1. Maximum rates for licensed group day care centers shall be set so that at least 75% of the full-time, 40 or more hours per week, group day care center slots in the county can be purchased at or below the maximum rate. The number of slots attributed to a center shall be equal to the center's licensed capacity;

2. Maximum rates for licensed group day care centers shall be set so that at least 75% of the group day care center slots for before and after school day care in the county can be purchased at or below the maximum rate;

3. Maximum rates for licensed family day care centers shall ensure that at least 75% of the full-time, 40 or more hours per week, family day care center slots in the county can be purchased at or below the maximum rates. The number of slots attributed to a center shall be equal to the center's licensed capacity;

4. Maximum rates for licensed family day care centers shall be set so that at least 75% of the family day care center slots for before and after school day care in the county can be purchased at or below the maximum rate;

5. In determining whether 75% of the full-time day care slots can be purchased at or below the maximum rate, the county may exclude only day care centers which operate less than 5 days a week or 5 hours a day or which receive funding from a board established under s.51.42 or 51.437, Stats.;

6. Reduced maximum rates may not be set for siblings served by group or family day care centers; and

7. Separate maximum rates may be set for day care for part of the day at group and family day care centers using the same method required under this paragraph.

(f) Maximum rates for certified family day care. The maximum rates for certified family day care shall be set as follows:

1. The maximum rate for certified family day care shall be no less than 75% of the maximum rate for licensed family day care centers unless another rate is justified by the county agency through a survey of providers or users of certified or uncertified family day care. Rates for siblings in certified family day care shall be no less than 75% of the rate for the first child enrolled by the family;

2. A graduated system of rates may be established for certified family day care providers based on the training and experience of the providers;

3. In-home care may be purchased only in the following circumstances:

a. A child has a special need;

b. Licensed or certified care is not available within a reasonable geographic area; or

c. Three or more children are being cared for.

(g) Maximum rates for certified in-home care. The maximum rates for certified in-home care shall be as follows:

1. An in-home provider caring for a child for 15 or more hours a week shall be paid in accordance with the state's minimum wage law; or

2. An in-home provider caring for a child for less than 15 hours a week shall be paid in accordance with the maximum rates for certified family care under par. (f).

(h) Maximum rates for other day care providers. The maximum rates for licensed group day care centers under par. (e) shall also apply to the following other providers:

1. Day care programs established and provided by a school board;

2. Certified school-age day care programs; and

3. Certified parochial and other private school-operated day care programs.

(i) Higher rates for crisis or respite needs. Rates which are higher than the maximums allowed under this section may be set for day care provided to children of parents with crisis or respite needs to cover costs of counseling and other support services for parents provided directly, or purchased by, day care providers and for training of day care providers.

HSS 55.75 USE OF DAY CARE FUNDS. Day care funds distributed under s. 46.98, Stats., may be expended by a county only to fund services that directly or indirectly benefit parents eligible under s.HSS 55.76, as follows:

(1) SERVICES THAT DIRECTLY BENEFIT PARENTS. Counties shall expend day care funds to provide day care services for parents eligible under s.HSS 55.76 through the use of vouchers issued to parents or contracts with providers for purchase of services; and

(2) SERVICES THAT INDIRECTLY BENEFIT PARENTS. Department approval is required for counties to expend day care funds:



(a) To purchase day care or child development-related activities which indirectly serve children receiving day care services, including equipment loan services, library services, training services, program consultation and information and referral;

(b) To pay for the costs of higher rates under s. HSS 55.74(2)(i) for counseling and other support services for parents with crisis or respite needs;

(c) To pay full or partial salaries for AFDC recipients employed by day care centers or systems;

(d) To pay for start-up, maintenance or expansion of day care services or facilities; or

(e) To pay for services to enhance or improve the quality of day care services, including education and training for day care providers.

HSS 55.76 PARENT ELIGIBILITY. (1) NEED. To be eligible for day care funds, a parent shall have a need for day care services for a child under the age of 12 and shall meet eligibility criteria under sub. (2), (3), or (4).

(2) ELIGIBILITY CRITERIA FOR WORKING PARENTS OR PARENTS SEEKING WORK. A parent who is working or seeking work is eligible if:

(a) The parent is working; is a recipient of aid to families with dependent children (AFDC) and has monthly day care expenses exceeding the child care disregard limit under AFDC. These parents are eligible for funding of day care costs which are above the disregard limit up to the county maximum day care rate;

(b) The parent is income-eligible and is in paid employment, including migrant or seasonal labor; or

(c) The parent is an AFDC recipient or income-eligible and is actively seeking work. This parent is eligible for the funding of a maximum of 20 hours of day care a week for 60 working days for time related to activities involved in seeking employment.

(3) ELIGIBILITY CRITERIA FOR PARENTS IN TRAINING OR EDUCATIONAL PROGRAMS. (a) A parent who is in training or an educational program is eligible if the parent is an AFDC recipient or income-eligible, maintains passing grades and is recognized as a student in good standing in an acceptable training or educational program designed to lead directly to paid employment.

(b) An acceptable training or educational program includes:

1. An accredited program leading to a high school diploma or a high school equivalency degree, including English as a second language or basic education;

2. An accredited program leading to vocational or technical certification or a diploma;

3. An accredited program that is part of a logical progression of training or education leading to paid employment;

4. A vocational rehabilitation program;

5. An accredited program leading to an undergraduate college degree;  
or

6. A publicly funded job experience or job training program.

(c) A parent possessing a bachelor of science or arts degree or equivalent is eligible for a maximum period of one year and only if the parent:

1. Needs further education or training necessary for entry into the job market;

2. Has been out of the work force for at least 2 years or has been laid off within the last 6 months;

3. Is available for work; and

4. Has been actively seeking work.

(d) A county agency may require that the training or educational program be related to the occupational goal stated in an employability plan developed in cooperation with Wisconsin job service.

(e) For the purpose of eligibility, a parent shall be limited to a total of 2 training or educational programs, whether or not completed, unless the programs are part of a logical progression of training or education leading to paid employment.

(f) Day care funding eligibility for training or educational purposes shall be limited to a combined total of 48 months in training or education which need not be consecutive months. Part-time training shall be prorated to be equivalent to 48 months of full-time training.

(4) ELIGIBILITY CRITERIA FOR PARENTS WITH CRISIS OR RESPITE NEEDS. A parent meeting eligibility criteria under this subsection is eligible to receive funds for day care costs without regard to income. Eligibility for a parent with crisis or respite needs shall be determined by the county agency based on the following criteria:

(a) A member of the family is receiving protective services;

(b) There is a risk of child abuse or neglect in the family, or a risk of a health or social condition which may adversely affect the child's development;

Note: Examples of family situations which might constitute risk include drug or alcohol abuse, mental health problems, family violence, acute financial stress and recent divorce or separation.

(c) The child is at-risk of out-of-home placement;

(d) The parent is hospitalized or otherwise unable to provide adequate care to the child;

(e) The parent or foster parent needs respite services because of stress involved in caring for a child with developmental disabilities or serious problematic behavior;

(f) The parent is under the age of 18;

(g) The parent lacks adequate parenting skills; or

(h) There is a high level of stress in the family.

(5) **ELIGIBILITY PRIORITIES.** County agencies may give first priority for child day care services to parents with crisis or respite needs if funding is insufficient to meet the needs of all eligible parents, but county agencies may not set additional priorities for eligibility.

(6) **INCOME ELIGIBILITY.** A parent is income-eligible if standard family income is within the income standard set annually by the department. The income standard shall be based on the state median income and may not be lower than 70% of the state median income.

HSS 55.77 PARENTAL CHOICE AND PARENTS' PAYMENT. (1) **PARENTS' CHOICE OF PROVIDER.** Parents may choose the particular licensed or certified day care provider for their child, except that a county agency may select the provider when the care is for crisis or respite purposes and parents may use in-home day care only with the approval of the county agency.

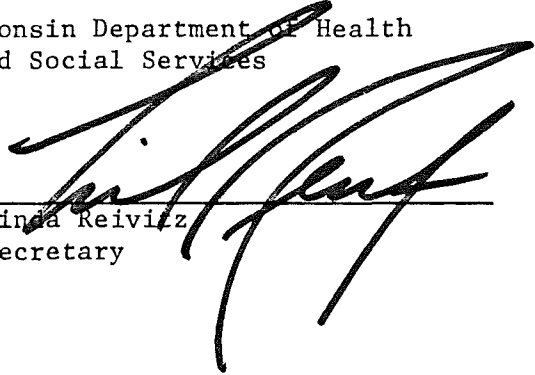
(2) **COSTS CHARGED TO PARENTS.** (a) Parents shall be required to make payments for day care services provided directly or by voucher or purchased by the county agency, in accordance with a payment schedule and procedures developed by the department under s. HSS 1.03. Payments shall be required of parents whose family income is equal to or greater than 50% of the state median income except that payments for crisis or respite day care may be waived by the county agency.

(b) Parents using vouchers for the payment of day care services may receive day care services from a provider whose rate is higher than the county maximum rate and pay the difference between the provider's rate and the county maximum rate in addition to payments required under par. (a).

(c) If a county agency purchases day care services by contract with a provider, billing and collection procedures shall be subject to ch. HSS 1. If a county agency purchases day care services by means of a voucher issued to the parents, billing and collection of the parents' payment under par. (b) is the responsibility of the provider.

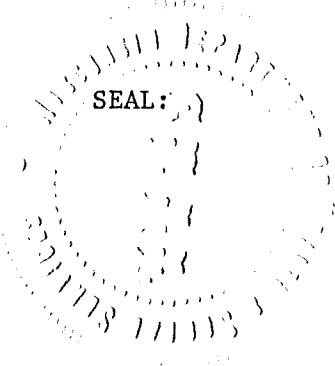
The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s.227.026(1), Stats.

Wisconsin Department of Health  
and Social Services



By \_\_\_\_\_  
Linda Reivitz  
Secretary

Dated: 7-5-85





State of Wisconsin \ DEPARTMENT OF HEALTH AND SOCIAL SERVICES

1 West Wilson Street, Madison, Wisconsin 53702

RECEIVED

Anthony S. Earl  
Governor

July 5, 1985

Linda Reivitz  
Secretary

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2:30  
Revisor of Statutes  
Bureau

Mailing Address:  
Post Office Box 7850  
Madison, WI 53707

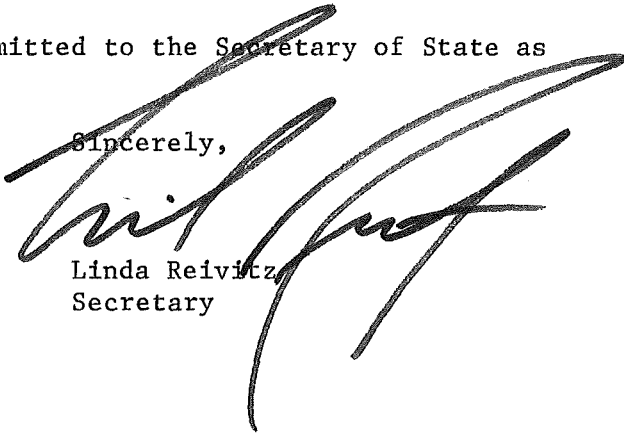
Mr. Orlan Prestegard  
Revisor of Statutes  
411 West, State Capitol  
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in s.227.023, Stats., there is hereby submitted a certified copy of HSS 55.50 to 55.77, administrative rules relating to day care services for children.

These rules are also being submitted to the Secretary of State as required by s.227.023, Stats.

Sincerely,

  
Linda Reivitz,  
Secretary

Enclosure